

Page 1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

~~~~~

4       MARK SULLIVAN,

5           Plaintiff,

6           vs.                                  Case No. 2:23-CV-03174

7       ANIL MAKHIJA, et al.,

8           Defendants.

9           ~~~~~

10           Video Deposition of  
11           MARK SULLIVAN

12           April 1, 2025  
13           10:08 a.m.

14           Taken at:

15           Frank J. Lausche State Office Building  
16           615 W. Superior Avenue  
17           Cleveland, Ohio

18           Tracy Morse, RPR

19  
20  
21  
22  
23  
24  
25

Page 2

1 APPEARANCES :

2 On behalf of the Plaintiff:

3  
4 Thorman Petrov Group Co., LPA, by  
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10 swyss@tpgfirm.com

11 On behalf of the Defendants:

12 Ohio Attorney General, by  
13 DAVID B. STOUFFER, ESQ.  
14 IN SON J. LOVING, ESQ.  
15 MICHAEL SLIWINSKI, ESQ.  
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17 Cleveland, Ohio 44113  
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19 inson.loving@ohioago.gov

20 ~ ~ ~ ~ ~

21 ALSO PRESENT:

22 Anne Schira, Esq.  
23 Ivan Bercian, Videographer

24 ~ ~ ~ ~ ~

Page 3

1 TRANSCRIPT INDEX  
2

|                                 |     |
|---------------------------------|-----|
| 3 APPEARANCES .....             | 2   |
| 4 INDEX OF EXHIBITS.....        | 4   |
| 5                               |     |
| 6 EXAMINATION OF MARK SULLIVAN  |     |
| 7 By MR. STOUFFER .....         | 7   |
| 8 By MR. PETROV.....            | 216 |
| 9 By MR. STOUFFER .....         | 219 |
| 10                              |     |
| 11 REPORTER'S CERTIFICATE ..... | 221 |
| 12                              |     |
| 13                              |     |
| 14                              |     |
| 15                              |     |
| 16                              |     |
| 17                              |     |
| 18                              |     |
| 19                              |     |
| 20                              |     |
| 21                              |     |
| 22                              |     |
| 23                              |     |
| 24                              |     |
| 25                              |     |

Page 4

|    |  | INDEX OF EXHIBITS |                              |
|----|--|-------------------|------------------------------|
|    |  | NUMBER            | DESCRIPTION MARKED           |
| 1  |  | Exhibit 1         | Resume of Mark J..... 16     |
| 2  |  |                   | Sullivan Ph.D.               |
| 3  |  | Exhibit 2         | 04/21/2015 Letter To.... 47  |
| 4  |  |                   | Mark J. Sullivan From        |
| 5  |  |                   | Anil K. Makhija and          |
| 6  |  |                   | John W. Berry, Bates Nos.    |
| 7  |  | Exhibit 3         | OSU_000029-000030            |
| 8  |  |                   | 06/28/2017 Memo To Mark.. 54 |
| 9  |  |                   | Sullivan From Peter Ward,    |
| 10 |  | Exhibit 4         | Bates Number OSU_002433      |
| 11 |  |                   | 04/02/2019 Memo To Mark.. 57 |
| 12 |  |                   | Sullivan From Anil           |
| 13 |  |                   | Makhija, Bates Number        |
| 14 |  | Exhibit 5         | OSU_000057                   |
| 15 |  |                   | 04/22/2021 Memo To Mark.. 59 |
| 16 |  |                   | Sullivan From Anil           |
| 17 |  | Exhibit 6         | Makhija, Bates Number        |
| 18 |  |                   | OSU_000058                   |
| 19 |  |                   | 02/25/2022 Memo To Mark.. 68 |
| 20 |  |                   | Sullivan From Anil           |
| 21 |  | Exhibit 7         | Makhija, Bates Number        |
| 22 |  |                   | OSU_002622                   |
| 23 |  |                   | 08/18/2021 Memo To Mark.. 80 |
| 24 |  |                   | Sullivan From Anil           |
| 25 |  |                   | Makhija, Bates Number        |
|    |  | Exhibit 8         | OSU_002434                   |
|    |  | Exhibit 9         | Third Amended Complaint.. 88 |
|    |  |                   | 12/31/2020 Position.....104  |
|    |  |                   | Description, Bates No.       |
|    |  | Exhibit 10        | OSU_002613                   |
|    |  |                   | 04/10/2020 Memo To Mark..115 |
|    |  |                   | Sullivan From Robert         |
|    |  |                   | Lount, Bates Numbers         |
|    |  | Exhibit 11        | OSU_000013-000014            |
|    |  |                   | 04/09/2021 Memo To Mark..119 |
|    |  |                   | Sullivan From Robert         |
|    |  |                   | Lount, Bates Numbers         |
|    |  | Exhibit 12        | OSU_000054-000056            |
|    |  |                   | 08/24/2020 Email To.....133  |
|    |  |                   | Robert Lount From Mark       |
|    |  |                   | Sullivan W/Attachment,       |
|    |  |                   | Bates Numbers                |
|    |  |                   | OSU_002742-002743            |

Page 5

|    | INDEX OF EXHIBITS (Continued) |                                                                                                                                               |
|----|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
|    | NUMBER                        | DESCRIPTION                                                                                                                                   |
| 1  | Exhibit 13                    | "Thrive: When Trouble...137<br>Visits!" Xeroxed Front<br>And Back Cover, Bates<br>Number OSU_002701                                           |
| 2  | Exhibit 14                    | BUSMHR #7236 -- Crucial..143<br>Conversations Syllabus,<br>Etc.                                                                               |
| 3  | Exhibit 15                    | BUSMHR #7236 -- Crucial..158<br>Conversations Course<br>Highlights                                                                            |
| 4  | Exhibit 16                    | 09/28/2021 Email To.....164<br>varnau.6@osu.edu From<br>AU21 BUSMHR 7236/Mark<br>Sullivan, Bates Number<br>OSU_000594                         |
| 5  | Exhibit 17                    | 09/29/2021 Email Trail...177<br>Between Mark Sullivan,<br>Robert Lount and<br>Unredacted, Bates Nos.<br>OSU_002750-002752                     |
| 6  | Exhibit 18                    | Plaintiff's Responses....186<br>To Defendants' First<br>Set of Interrogatories<br>And Requests For<br>Production of Documents<br>To Plaintiff |
| 7  |                               |                                                                                                                                               |
| 8  |                               |                                                                                                                                               |
| 9  |                               |                                                                                                                                               |
| 10 |                               |                                                                                                                                               |
| 11 |                               |                                                                                                                                               |
| 12 |                               |                                                                                                                                               |
| 13 |                               |                                                                                                                                               |
| 14 |                               |                                                                                                                                               |
| 15 |                               |                                                                                                                                               |
| 16 |                               |                                                                                                                                               |
| 17 |                               |                                                                                                                                               |
| 18 |                               |                                                                                                                                               |
| 19 |                               |                                                                                                                                               |
| 20 |                               |                                                                                                                                               |
| 21 |                               |                                                                                                                                               |
| 22 |                               |                                                                                                                                               |
| 23 |                               |                                                                                                                                               |
| 24 |                               |                                                                                                                                               |
| 25 |                               |                                                                                                                                               |

Page 6

1                   VIDEOGRAPHER: We're now on the  
2 record. Today's date is April 1, 2025. The  
3 time is approximately 10:08 a.m. This is the  
4 videotape deposition of Mark Sullivan in the  
5 matter of Mark Sullivan versus The Ohio State  
6 University, et al., case number 2:23-CV-03174,  
7 in the United States District Court for the  
8 Southern District of Ohio, Eastern Division.

9                   Will counsel please state their names for  
10 the record.

11                   MR. STOUFFER: David -- I'm sorry.  
12 Dan, you first.

13                   MR. PETROV: Either way.

14                   Dan Petrov here on behalf of Mark  
15 Sullivan and I'm with Sarah Wyss, who's not on  
16 microphone, Sarah Wyss, also here for plaintiff  
17 Mark Sullivan.

18                   MR. STOUFFER: And then David  
19 Stouffer and In Son Loving for defendant, The  
20 Ohio State University, and the individual  
21 defendants.

22                   MARK SULLIVAN, of lawful age, called for  
23 examination, as provided by the Federal Rules  
24 of Civil Procedure, being by me first duly  
25 sworn, as hereinafter certified, deposed and

Page 7

1 said as follows:

2 EXAMINATION OF MARK SULLIVAN

3 BY MR. STOUFFER:

4 Q. All right. Mr. Sullivan, nice to  
5 meet you. My name is David Stouffer. I'm with  
6 the AG's office. I just kind of want to go  
7 through some background rules and --

8 A. Sure.

9 Q. -- what we'll do here. So can you  
10 spell your last name?

11 A. S-u-l-l-i-v-a-n.

12 Q. Okay. And you understand I'll be  
13 asking you questions today?

14 A. Yes.

15 Q. And your answers will be under  
16 oath?

17 A. Yes.

18 Q. And this deposition is being video  
19 recorded and also recorded by the court  
20 reporter. Both of these items will be made  
21 part of the public record if we go forward with  
22 dispositive motions. Do you understand that?

23 A. Yes.

24 Can I ask a question?

25 Q. Sure.

Page 8

1           A.       This is the first time I'm doing  
2 this. I was curious what it means to be under  
3 oath. I don't have a legal background or  
4 anything, so I don't know what it means.

5           MR. PETROV:     And you'll  
6 understand -- maybe I can --

7           MR. STOUFFER:    Yeah.

8           MR. PETROV:     Tracy gave you the  
9 oath --

10          THE WITNESS:    Yes.

11          MR. PETROV:     -- he's just asking  
12 you, did you understand that she gave you an  
13 oath --

14          THE WITNESS:    Okay.

15          MR. PETROV:     -- to testify  
16 consistent with her instructions and you did,  
17 so.

18          THE WITNESS:    Thank you.

19 BY MR. STOUFFER:

20          Q.       And it just means that you're  
21 testifying truthfully and penalty of perjury  
22 applies --

23          A.       Sure.

24          Q.       -- which is all it means, as if  
25 you're in a courtroom but obviously there's no

Page 9

1       judge here.

2           A.       Yes, yes.

3           Q.       You know, one of the most important  
4       things I like to emphasize is that, when I'm  
5       asking a question or you're answering, we not  
6       interrupt each other. So that way there's a  
7       clean transcript. I think most attorneys have  
8       been yelled at at least once by a court  
9       reporter for talking over each other. It makes  
10      the court reporter's job a bit more difficult.  
11      So to the extent possible, let's try not to  
12      speak over each other.

13           A.       Sure.

14           Q.       I would ask that you please wait  
15      for my full question before answering. This is  
16      because even in a normal conversation, it might  
17      feel natural to answer a question before it's  
18      finished, because you know where it's going,  
19      but I'd just ask that you wait for my question  
20      to be complete before you answer. If you don't  
21      understand a question, you can always ask --  
22      you can ask me to clarify or rephrase. So I'm  
23      happy to rephrase if necessary. So, also, we  
24      do have a breakout room for you, as I mentioned  
25      before we went on the record. So I try to

Page 10

1 insert breaks every 90 to 120 minutes. But if  
2 you need a break or one of your counsel needs a  
3 break beforehand, I give them out freely so  
4 that's fine. The only thing I'd ask is that if  
5 there's a question pending or if we're not at a  
6 natural stopping point that we kind of keep the  
7 question going.

8 A. Sure.

9 Q. From time to time, I assume that  
10 your counsel will object to my question.  
11 Unless he specifically instructs you not to  
12 answer, you will still need to answer my  
13 question.

14 And then, is there any reason that you're  
15 not able to provide complete, accurate and  
16 truthful testimony today?

17 A. No.

18 Q. Okay. And I'm going to just ask  
19 briefly about medical information. So are you  
20 taking any medication currently?

21 A. I'm a diabetic, Type II, so I take  
22 a normal regimen for someone with Type II  
23 diabetes.

24 Q. Does that affect your memory at  
25 all?

Page 11

1           A.       No.

2           Q.       Okay. Do you have any other mental  
3       or physical conditions that inhibit your  
4       memory?

5           A.       No.

6           Q.       Okay. And without discussing any  
7       conversations with your counsel, what did you  
8       do to prepare for today's deposition?

9           A.       Read a series of documents,  
10      reflected on potential areas of inquiry.

11          Q.       Do you remember which documents  
12      those were?

13          A.       Yes, I do.

14          Q.       Which ones were those?

15          A.       The apology document, the Professor  
16      Turner document where she was charged by a  
17      student for her -- for her behavior as well as  
18      description of mine. A -- I read a series of  
19      documents that I had submitted to my counsel,  
20      like the nominating letter document for  
21      distinguished teaching and all eleven of the  
22      letters of support or recommendation. And  
23      there were a couple of others. If you mention  
24      them, I would be able to confirm, yea, or, nay.

25          Q.       And so those are the only documents

Page 12

1 you recall at this point reviewing?

2 A. Yeah. I mean, there were -- yes.

3 Q. Okay. And then other than your  
4 attorney, did you speak to anyone about this  
5 deposition in preparing for it?

6 A. Just my wife --

7 Q. Okay.

8 A. -- and on a very high level my  
9 three sons.

10 Q. And have you ever been a plaintiff  
11 or defendant in a civil action, other than this  
12 current action?

13 A. No.

14 Q. Okay. And then, have you ever  
15 testified under oath before in any sort of  
16 legal proceeding?

17 A. No. Prepared to do so on behalf of  
18 the Attorney General's Office for a different  
19 faculty transaction --

20 Q. And which one --

21 A. -- but that was --

22 Q. I'm sorry.

23 A. -- but they took me off the list at  
24 the last minute.

25 Q. Does that mean you were prepared --

Page 13

1 you were being prepared to testify but --

2 A. Yes.

3 Q. -- but you didn't go forward with  
4 testifying?

5 A. Right, working on behalf of the  
6 AG's office.

7 Q. And which matter was that; do you  
8 recall?

9 A. It was a matter regarding a faculty  
10 member that was also in the executive ed arena  
11 and who was being released for some -- some  
12 like selling of client leads.

13 Q. Oh, I see. You said, "Executive  
14 ed." Can you just explain for the record what  
15 you mean by that?

16 A. Sure. So there's roughly 200  
17 faculty members on staff in various capacities  
18 at OSU Fisher College of Business. And a very  
19 small percentage of them, about 1 percent, are  
20 invited to teach varied content to midlevel and  
21 executives in industry --

22 Q. Okay.

23 A. -- and so it's a premium kind of  
24 area that the college likes to -- the business  
25 school likes to put what they consider their

Page 14

1 best professors into that position of facing  
2 what you might say, high margin customers.

3 Q. Um-hum. And so there was a  
4 professor involved in that program --

5 A. Right --

6 Q. -- selling leads?

7 A. -- right. Had a private consulting  
8 business and was recruiting exec ed students to  
9 participate in her private non-Fisher business.

10 Q. And do you recall the professor's  
11 name?

12 A. No, I don't.

13 Q. Okay.

14 A. This was a number of years ago.

15 Q. Okay. Approximately how many years  
16 ago? Or do you remember the year?

17 A. You know, maybe five -- I'm just  
18 guesstimating, five or six years ago.

19 Q. Okay. Other than moving  
20 violations, have you ever been indicted,  
21 convicted or ever pled guilty to any  
22 criminal --

23 A. No.

24 Q. -- counts?

25 MR. PETROV: Objection.

Page 15

1           You can answer. You can answer.

2           THE WITNESS: Okay.

3           A. No.

4           Q. No. Okay. Have you ever filed any  
5 internal complaint alleging a violation of a  
6 legal right of one of your former employers?

7           A. No.

8           Q. Have you ever filed any  
9 administrative charges, discrimination at any  
10 former employer?

11          A. No.

12          Q. And then have you ever filed for  
13 bankruptcy?

14          A. No.

15          Q. And then have you ever been  
16 involved in a divorce proceeding?

17          A. No.

18          Q. Okay. I'm going to hand you my  
19 first exhibit.

20          A. By the way, that's the best thing  
21 going in my life.

22          Q. Congratulations. How long?

23          A. Twenty-nine years.

24          Q. Oh, congratulations.

25          A. Thanks.

Page 16

1 - - - -  
2 (Thereupon, Deposition Exhibit 1,  
3 Resume of Mark J. Sullivan Ph.D.,  
4 was marked for purposes of  
5 identification.)

6 - - - -  
7 Q. All right. I'm going to hand you  
8 what is marked Defendant's Exhibit 1.

9 MR. STOUFFER: (Handing.)

10 MR. PETROV: Thanks.

11 MR. STOUFFER: I apologize. I  
12 unfortunately only have one copy.

13 MR. PETROV: We can share.

14 MR. STOUFFER: You can share.

15 BY MR. STOUFFER:

16 Q. All right. Just take a moment to  
17 review the document and let me know when you're  
18 done.

19 A. I'm done, David.

20 Q. Okay. Do you recognize Exhibit 1?

21 A. Yes, I do.

22 Q. And what is it?

23 A. My resume.

24 Q. Is this the same resume you turned  
25 over in discovery?

Page 17

1           A.       I varied -- I have a number of  
2 variations, so I'm not sure.

3           Q.       Okay. And did you create  
4 Exhibit 1?

5           A.       Yes, yeah.

6           Q.       Okay. I'm going to start with your  
7 education, so if you go to, I believe it's the  
8 third page. So do you see kind of near the  
9 bottom of the third page it says, "Education"?

10          A.       Okay.

11          Q.       And you attended Case Western  
12 University for your Ph.D.?

13          A.       Yes.

14          Q.       And what degree did you receive  
15 from Case Western?

16          A.       So from Case, Weatherhead, it  
17 was -- Weatherhead School of Management, it was  
18 a Ph.D. in organizational behavior.

19          Q.       Okay. And then how long did that  
20 program take you?

21          A.       For me it took six years full-time.

22          Q.       And then what year did you  
23 graduate?

24          A.       In '97.

25          Q.       And then what was the prior -- and

Page 18

1       then going down to, Harvard University --

2           A.       Right.

3           Q.       -- did you attend Harvard?

4           A.       So that was a joint degree program  
5       out of Harvard School of Education and School  
6       of Business and it was referred to as, a  
7       master's in organizational development.

8           Q.       Okay. And when did you graduate?

9           A.       1980.

10          Q.       And about how long were you there?

11          A.       That was a one-year program.

12          Q.       One-year program?

13          A.       Yeah.

14          Q.       Okay. And then going down to --

15       And is it Fitchburg?

16          A.       Yes.

17          Q.       -- Fitchburg State University.

18          A.       Yes.

19          Q.       When did you attend Fitchburg State  
20       University?

21          A.       1972 to '76.

22          Q.       '76. And then what degree did you  
23       receive?

24          A.       It was a bachelor's degree with a  
25       major in special education.

Page 19

1           Q.        Okay. Did you at any time after  
2 attending Fitchburg go on to teach or have a  
3 career in primary or secondary education?

4           A.        Yes.

5           Q.        For how long and what years?

6           A.        So that was first year out of  
7 college, so. I graduated in 1976. And so that  
8 following year, I taught intercity high school  
9 special ed for what was labeled -- the label  
10 then was with emotionally -- they referred to  
11 it as, emotionally disturbed and learning  
12 disabled intercity high school students.

13          Q.        And how long were you there?

14          A.        Just for that first year.

15          Q.        And then is that when you -- then  
16 you left to go into -- and we'll get to this a  
17 little later, but is that when you went to  
18 United Airlines?

19          A.        I worked for a family business,  
20 manufacturing concern and then went from -- and  
21 my role was to oversee sales personnel and  
22 sales development training and --

23          Q.        And what was -- oh, sorry.

24          A.        -- and that was with Wright Line, a  
25 family business in Worcester, Mass, which given

Page 20

1 how many years -- I'm older so I -- you know,  
2 there was one or two pieces of employment that  
3 I left out just because it was getting too  
4 long.

5 Q. That's totally fine. That's why  
6 I'm asking you.

7 A. Yeah, yeah. But that was -- it was  
8 a great experience. And out of that I had  
9 United Airlines come to me and ask me to work  
10 for them --

11 Q. Okay.

12 A. -- in the same capacity, so that  
13 was in sales training.

14 Q. Okay. And you said, "A family  
15 business." Does that mean you're originally  
16 from Massachusetts?

17 A. Yes, yes --

18 Q. Okay.

19 A. -- it does.

20 Q. All right. And then I'm going to  
21 go -- I'm going to go kind of from most recent  
22 to most distant for your work history. So  
23 starting with Apex. What is Apex?

24 A. So Accelerated Performance  
25 Excellence, a small consulting business that

Page 21

1 focused on organizational development issues.  
2 So training, coaching, working with hierarchies  
3 like, say, the Attorney General Office and  
4 looking at things like decision rights and how  
5 to create clear processes and handoffs and so  
6 on.

7 Q. And on your resume it says,  
8 "Managing director." Is that the position you  
9 held the entire time?

10 A. Yes.

11 Q. And is this a consulting firm that  
12 you started?

13 A. Yes --

14 Q. Okay.

15 A. -- it is --

16 Q. Okay.

17 A. -- I worked with a couple of other  
18 people, though, but --

19 Q. Did you have any employees?

20 A. So they were all contractors.

21 Q. Oh, all contractors. Okay. And  
22 then how much money did you make in the two  
23 years -- in each of the two years you were  
24 there?

25 MR. PETROV: Objection.

Page 22

1           But you can answer.

2           THE WITNESS:    Okay.

3           A.       So it was roughly \$50,000 in one --  
4 I think in total maybe \$100,000.

5           Q.       So \$50,000 the first year and  
6 then \$50,000 the second year?

7           A.       I think so.  Don't quote me.  I'd  
8 rather say nothing if I don't know exactly but  
9 I was --

10          Q.       It's okay if it's an approximation.

11          A.       Yeah, yeah.

12          Q.       Okay.  And then we'll get to the  
13 employment after that later.  But going back  
14 again to Battelle Memorial --

15          A.       Yeah.

16          Q.       -- Institute.  When did you work  
17 there?

18          A.       So from 2007 to 2013.

19          Q.       And were you hired on as a chief  
20 talent officer?

21          A.       Yes.

22          Q.       And you stayed in that position?

23          A.       Yes.  Well, I was -- I got an  
24 upgraded position.  I was hired as a vice  
25 president and then became senior vice president

Page 23

1 overseeing different capacities like DEI,  
2 talent training, development, executive  
3 development and so on --

4 Q. Okay.

5 A. -- performance management, you  
6 know, how you -- so those were some of the many  
7 categories.

8 Q. Okay. And then how long were you  
9 there?

10 A. From 2007 to 2013.

11 Q. Okay. And then why did you leave  
12 to go on to Apex?

13 A. There was a change of leadership  
14 and I felt it was more opportunistic at that  
15 time to move on to a private consulting  
16 business.

17 Q. Did you resign or were you  
18 separated from employment involuntarily?

19 A. I was separated.

20 Q. Okay. Who was your supervisor  
21 during -- or supervisors, I should say,  
22 during --

23 A. Yeah.

24 Q. -- your time there?

25 A. So it was executive vice president

Page 24

1 Tom -- I can't think of his last name now. It  
2 was a number of years ago -- Tom Snowberger.

3 Q. And he was a senior vice president?

4 A. He was, I think the executive vice  
5 president.

6 Q. Executive vice president. Did they  
7 give you any reasons as to the separation?

8 A. Just that we had different  
9 perspectives on management philosophies and  
10 perspectives.

11 Q. Anything specifically with --

12 A. No.

13 Q. -- regards to management  
14 philosophy?

15 A. Well, just that I believe in more  
16 investment in training and development and  
17 there was some cutting back. It was during a  
18 time when the government was in contraction  
19 mode. And Battelle has about 90 percent of  
20 their business in the government, so they had  
21 to cut back --

22 Q. Okay. And that was --

23 A. -- and they did not -- they closed  
24 that position amongst a number of leadership  
25 positions.

Page 25

1           Q.       And are these reasons for your  
2 separation what you were told or what you just  
3 suspect?

4           A.       What I was told.

5           Q.       Okay. And then before Battelle, it  
6 looks like you worked for Honeywell  
7 International, correct?

8           A.       Right.

9           Q.       What can you tell me about your  
10 time there?

11          A.       That was -- so I oversaw strategy  
12 and executive and workforce training and  
13 development and leadership development and  
14 oversaw the learning technology area --

15          Q.       And then --

16          A.       -- and that was for -- that was on  
17 an enterprise level, so.

18          Q.       And you were employed at Honeywell  
19 from 2001 to 2007?

20          A.       Yes.

21          Q.       Okay. Why did you leave Honeywell?

22          A.       So that was a time that was -- I  
23 was just very much looking for something new  
24 and different in my career. I was really -- I  
25 was also personally concerned about my --

Page 26

1 there's a personal matter. My wife's mom was  
2 of failing health and we wanted to get back to  
3 Ohio --

4 Q. Okay.

5 A. -- so -- so that was a big  
6 motivator. And it was very -- Battelle was  
7 very quick to hire me, when they knew that I  
8 was interested in them.

9 Q. Okay. So does that mean it was a  
10 voluntary resignation?

11 A. Yeah.

12 Q. Okay. And before Honeywell, it  
13 looks like from 1997 to 2002, you worked at  
14 Accenture.

15 A. Yes.

16 Q. And then what can you tell me about  
17 the position you had there?

18 A. So that was also voluntary. It was  
19 after 9/11. We had 800 consultants out of the  
20 Denver office, you know, a typical large legacy  
21 consulting house. And I had to let go  
22 about 150 of my own consultants. And there was  
23 only 20 of us that were in leadership and I  
24 knew at some point they'd be coming for us. So  
25 I voluntarily left to go towards Honeywell,

Page 27

1 which was also a more substantial opportunity.

2 Q. Did you take then like a severance  
3 or a buyout?

4 A. Nothing. It was voluntary.

5 Q. A voluntary resignation?

6 A. Yeah.

7 Q. And then it looks like for a time  
8 you worked at Case Western Reserve University,  
9 Weatherhead Management School.

10 A. Right.

11 Q. What can you tell me about your  
12 time there?

13 A. So I taught under -- in the  
14 organizational behavior department as a  
15 doctoral student for Dr. Richard Boyatzis,  
16 foundations of management as well as taught in  
17 the executive ed space as well. They were --  
18 they came to me and asked if I could teach  
19 negotiating skills and sales communications and  
20 a few other -- I think like influence and power  
21 workshops --

22 Q. Influence and power workshops --

23 A. -- and so -- and I also did some  
24 volunteer work as a doctoral student in the  
25 whole area of diversity. I ran diversity

Page 28

1 workshops.

2 Q. Okay. It says that you were on the  
3 executive MBA faculty.

4 A. Yeah.

5 Q. And is that when you were a  
6 doctoral student?

7 A. Right, yes, yes, yeah. I was also  
8 combining that -- you know, so I was being  
9 trained as an organizational psychologist but  
10 also -- during those six years but three years  
11 in what was a post doc clinical training on  
12 individual and team development --

13 Q. Okay.

14 A. -- and that was at Gestalt  
15 Institute.

16 Q. I was going to ask you about that.

17 A. It focused on embracing and  
18 constructively dealing with resistance and  
19 tension at an individual and team level.

20 Q. Okay. So Gestalt Institute of  
21 Cleveland, which is on the third page of the  
22 resume under, "Education" --

23 A. Right.

24 Q. -- that's in connection with your  
25 time at Case Western?

Page 29

1           A.        Yeah.  There were a couple of us  
2        that were admitted into that program while we  
3        were doctoral students.  Usually it's after  
4        because it's a post doc --

5           Q.        Um-hum.

6           A.        -- but a couple of us were admitted  
7        earlier.

8           Q.        Okay.  And prior to your time at  
9        Case Western, you worked at United Airlines?

10          A.        Yes.

11          Q.        And what can you tell me about your  
12        time there?

13          A.        So I oversaw workforce development,  
14        leadership development, strategy, business  
15        strategy with executives, and those sorts of  
16        things.  And that was globally, so I did a lot  
17        of travel around the world.  It was for -- my  
18        charge was to work to development capacity,  
19        individual and team business capacity  
20        for 225,000 students -- I mean, employees.

21          Q.        Okay.  And then did you leave your  
22        employment at United Airlines voluntarily?

23          A.        Yeah.

24          Q.        Okay.

25          A.        Actually, they gave me what was a

Page 30

1       five-year educational leave of absence -- the  
2       first time they had ever done that in their  
3       history -- so that I could go off and take this  
4       Ph.D. program at Case. So I was living and  
5       working for United Airlines in Chicago -- or  
6       based out of Chicago --

7           Q.       Um-hum.

8           A.       -- and then I voluntarily asked to  
9       take an extended leave of absence, which  
10      usually would be for just one year. They made  
11      an exception with me. And it was on the  
12      premise that I would be quarterly connected to  
13      them with a workshop. They would fly me back  
14      and I would do a workshop. They would give me  
15      some free travel and support me in a number of  
16      other ways while being a doctoral student.

17           Q.       Okay. So can you explain, though,  
18      why the employment dates end at United Airlines  
19      in 1991, if you were kept on? Because it looks  
20      like -- and correct me if I'm wrong.

21           A.       Yeah.

22           Q.       -- but it looks like you started at  
23      Case Western Reserve University in '91 but by  
24      United Airlines, your employment apparently  
25      ended in '91.

Page 31

1           A.       Yeah, so I -- so officially I got  
2 off active payroll in '91, but unofficially I  
3 was -- we had a special arrangement that was  
4 negotiated between them and me. They didn't  
5 want to see me go, which is why they gave me a  
6 five-year Ph.D. educational leave of absence.  
7 And so I was -- I had this unofficial, kind of  
8 what you might say, off the books association  
9 where they would have me come back and I would  
10 do some volunteer workshops, you know, in lieu  
11 of the fact that they were giving me five years  
12 off.

13           Q.       You didn't return to United  
14 Airlines --

15           A.       Right.

16           Q.       -- though, correct?

17           A.       That's right. They wanted me to  
18 and I was interested. They were good people.  
19 We had a great relationship. But Accenture had  
20 a better offer. And I was newly wed at the  
21 time and looking to maybe start a family and  
22 buy a house and so on and Accenture had a  
23 better offer.

24           Q.       That makes sense. Is Defendants  
25 Exhibit 1 a true and accurate copy of your

Page 32

1 resume?

2 A. Yes.

3 Q. Okay. I want to now jump forward  
4 in time and go to your time at the Performance  
5 Learning Academy in Cleveland.

6 A. Right.

7 Q. What can you tell me about that  
8 position?

9 A. It's a startup business focusing on  
10 executive coaching and keynote speaking  
11 engagements. I plan on full-time launch within  
12 this or next quarter. I've invested funds. So  
13 I am already doing some executive coaching, but  
14 I've been busy in the business development, BD,  
15 side spending money developing a website and  
16 developing leads and contacts, et cetera, so --

17 Q. Okay. And --

18 A. -- but I am -- there is some -- a  
19 very small amount of recurring revenues coming  
20 in from the executive coaching --

21 Q. Okay.

22 A. -- but I really don't know how much  
23 money or revenues would come in from this.

24 Q. Do you have any employees or --

25 A. No, no. It's just me.

Page 33

1           Q.       And did you start -- and prior to  
2       the Performance Learning Academy, you worked at  
3       OSU, correct?

4           A.       That's right.

5           Q.       And so you didn't -- or did you  
6       start the Performance Learning Academy during  
7       or after your separation?

8           A.       After my separation.

9           I also have reached out to other  
10      executive ed programs embedded in other  
11      universities, so --

12       Q.       Okay.

13       A.       -- so I met with different people  
14      from the University of Michigan. I've --  
15      George Mason and so on.

16       Q.       Okay. So based on what you said a  
17      little bit earlier, is it correct to say then  
18      that you wouldn't be able to approximate your  
19      income?

20       A.       That's right.

21       Q.       Okay. And then have you -- well,  
22      we'll get to that. Okay. Let's talk about  
23      your employment at OSU. So when did you start  
24      working for OSU?

25       A.       That was in -- it was about June or

Page 34

1 so of -- where is it? -- 2015.

2 Q. Okay. Would that be August  
3 of 2015?

4 A. Yeah, that sounds -- that sounds  
5 about right.

6 Q. And then do you remember when --  
7 well, first, what position did you hold at OSU?

8 A. My hiring manager Ben Tepper was  
9 initially looking at a lecturer position.  
10 After talking with me and hearing the thirty  
11 years of industry and practitioner experience,  
12 he raised it -- raised both the position title  
13 and the income from a lecturer to a senior  
14 lecturer and the income from 120 to like 150 or  
15 so starting off.

16 Q. Okay. So you worked as a senior  
17 lecturer?

18 A. That's right.

19 Q. And you were employed in the Fisher  
20 College of Business?

21 A. Yes, but I did -- while under their  
22 employment, I was asked to teach across the  
23 university including the vice president of HR  
24 of OSU hired me to teach all of their HR folks  
25 in Crucial Conversations. They brought in 150

Page 35

1       HR folks from across the state and made it  
2 mandatory that they would go through my  
3 training. So all of this content that we're  
4 talking about was approved and paid for by --  
5 by OSU HR for me to teach them.

6           And that's an example of one of the many  
7 times that I was asked to teach outside of  
8 the 18 colleges that make up the  
9 university -- 18 colleges and schools that make  
10 up the university. One of them happens to be  
11 Fisher College of Business but I worked in  
12 other colleges, businesses and also functions.  
13 So HR function I worked in as a teacher for  
14 them.

15           Q.       So just kind of taking what you're  
16 saying. So were you a senior lecturer assigned  
17 to Fisher College of Business --

18           A.       Yes.

19           Q.       -- but you did visiting teaching in  
20 other colleges and universities?

21           A.       That's right, that's right.

22           Q.       Okay.

23           MR. PETROV:     Mark, you're going  
24 to drive Tracy crazy. You're communicating in  
25 a normal way in conversations, but the, That's

Page 36

1 right's, or, Okay's, in the middle of David's  
2 questions just make it hard for her because she  
3 has to record every one of those. So to the  
4 extent you can just let David finish his entire  
5 question --

6 THE WITNESS: Thank you.

7 MR. PETROV: -- and then you give  
8 your entire answer. It's a little more  
9 rigorous than a regular conversation.

10 THE WITNESS: Yes, yes. Thank  
11 you.

12 Sorry, David.

13 MR. STOUFFER: It's okay.

14 THE WITNESS: Thank you.

15 MR. PETROV: No. Thank you.

16 BY MR. STOUFFER:

17 Q. What were your duties as a senior  
18 lecturer?

19 A. I was principally charged with  
20 teaching a series of courses that involved  
21 developing my own material and/or leveraging  
22 licensed material. In this case, one-third of  
23 the 15-week 40-hour Crucial Conversation class  
24 was licensed material. So, for example, I was  
25 under obligation under the license to teach,

Page 37

1 how do you apologize, like that was -- so in a  
2 crucial conversation, it's important to know  
3 ways to deal with conflict and tension and  
4 misunderstandings. And so I was required to  
5 teach and show cases and examples of apologies,  
6 and that was under the licensure agreement part  
7 of my job as a senior lecturer.

8 Q. Okay. And I appreciate the  
9 description but I have -- I admit, I forgot to  
10 followup about the HR staff issue. So you said  
11 earlier you taught HR staff Crucial  
12 Conversations.

13 A. Yes, that's right.

14 Q. Do you remember when that took  
15 place?

16 A. That was roughly -- it was before  
17 the pandemic. So I'm now guesstimating that  
18 it's 2018 or so --

19 Q. Okay.

20 A. -- it could be 2019 --

21 Q. And this was --

22 A. -- the vice president of HR over  
23 all of OSU was my client.

24 Q. And this was the entirety of OSU's  
25 HR staff?

Page 38

1           A.       Entirety. They felt it was that  
2 important. They brought in roughly 150 HR  
3 folks from all the campuses across the state.

4           Q.       Okay. And then you said,  
5 "Leveraging licensed material." Can you  
6 explain that to me in simple terms?

7           A.       Sure. So for the first 7 of 15  
8 weeks or what would be roughly 18 of 40 hours,  
9 I would teach someone else's content but in my  
10 own way. I mean, so -- and I had to be  
11 licensed. I was the -- at the time I was the  
12 only one licensed at OSU to be able to teach  
13 this material. And it was the only business  
14 school in America that was giving three credits  
15 for learning this material. So I had to teach  
16 it according to the content as laid out by this  
17 supplier. And then two-thirds of the  
18 program -- or another third was around  
19 executive presence and also leadership  
20 resilience.

21           So, for an example, my content around  
22 executive presence involved touching and space  
23 management. You know, how do you fill the  
24 space up and how do you do things such as show  
25 affirmation and support by acknowledging

Page 39

1       people's smiles, by touching them in three  
2       places, if appropriate; appropriate touch,  
3       which was on top of the hand, the arm wrist or  
4       the top of the shoulder. And so teaching ways  
5       to do that to show support or affirmation or,  
6       I'm with you, was content that was in one-third  
7       or, you know, there were like three pillars of  
8       the course.

9           Q.        Okay. And do you remember when you  
10      interviewed for the senior lecturer position?

11          A.        I do.

12          Q.        When did that interview take place?

13          A.        So that happened around the spring  
14       of 2015, by Ben Tepper, my hiring manager, and  
15       me. And he had heard about me and reached out  
16       to me and asked, "Would you be willing to come  
17       in and have a conversation about a position we  
18       have open."

19          Q.        Had you previously submitted any  
20      sort of application or --

21          A.        I had no idea what -- I had no  
22      association with OSU, except one of two  
23      meetings with the former dean who was  
24      interested in my work at Battelle and wanted to  
25      create a partnership between Battelle and OSU

Page 40

1 Fisher College of Business. And since I was  
2 running 100-day incubator leadership  
3 development program there, she wanted in on  
4 some part of that in some way. So that was the  
5 only association I had with OSU.

6 Q. When you say, "Former dean," who  
7 are you referring to?

8 A. It was a woman. I can't think of  
9 her name. I just met her once or twice. She  
10 came to my office, I came to her office, that  
11 kind of thing, once or twice. That was around  
12 the time period of like 2012 or 2011.

13 Q. Okay. I see. So in 2012, you met  
14 the then dean --

15 A. Right. And that was --

16 Q. -- of Fisher?

17 A. -- and that was the only  
18 association.

19 I'm sorry for interrupting.

20 Q. Yeah, as Dan said, it's actually  
21 not even for our benefit. It's really for the  
22 court reporter's benefit --

23 A. Yeah.

24 Q. -- and I do it, too --

25 A. Yeah.

Page 41

1           Q. -- kind of fall into natural  
2 conversational patterns.

3           So the person you're referring to, when  
4 you said, "The prior dean," it was the dean of  
5 the Fisher College of Business in or  
6 around 2012?

7           A. Yes.

8           Q. Okay. And was anyone else in the  
9 interview, between you and Ben Tepper?

10          A. No.

11          Q. And what was Ben Tepper's title at  
12 the time, or position?

13          A. He was -- he was a department chair  
14 for management and HR.

15          Q. And, Management and HR, that's a  
16 department within the Fisher College of  
17 Business?

18          A. That's right. It's one of  
19 roughly -- they may have changed it, but there  
20 was roughly six or seven departments in terms  
21 of their organizational structure, and one of  
22 them was the department of management and human  
23 resources.

24          Q. Just for clarity and for the  
25 record, if I were to refer to the, "MHR

Page 42

1 department" --

2 A. Yes.

3 Q. -- would you understand that to  
4 mean the management human resource department?

5 A. That's right.

6 Q. Okay.

7 MR. PETROV: Just, M-H-R?

8 MR. STOUFFER: M-H-R.

9 MR. PETROV: Got it.

10 MR. STOUFFER: Yeah, I've been  
11 confusing that sometimes, too.

12 MR. PETROV: Well, you can pick  
13 whatever you want. I just wanted to make sure  
14 I heard you correctly. Got it.

15 MR. STOUFFER: Okay.

16 BY MR. STOUFFER:

17 Q. So is there anything that stuck out  
18 to you or that you remember from your interview  
19 with Ben Tepper?

20 MR. PETROV: Objection to form.

21 But you can answer if you can, Mike.

22 THE WITNESS: Sure.

23 A. What I remember was how excited he  
24 was to potentially hire someone who was  
25 considered within the industry and within his

Page 43

1 and other circles as being a real expert in the  
2 field. And he was particularly, I think  
3 intrigued about certain experiences I have.  
4 Like I worked with the State Department over --  
5 when it was the Soviet Union, Moscow and  
6 working in other places. So he knew I had  
7 material experience in the field of human  
8 resources management and talent -- talent  
9 development.

10 Q. Okay. Do you remember Ben Tepper  
11 going over any of the duties of the position  
12 and describing the duties?

13 A. Yes. It was more in general terms.  
14 He said, "We need someone who is creative and  
15 disciplined that can create some programs here  
16 that need a lot of attention, a lot of love."  
17 It was -- and he went specifically -- there was  
18 one program that was called The Global  
19 Consulting Program. And he said, "We don't  
20 have anyone here that could" -- have any  
21 faculty that actually worked for a consulting  
22 house that he knew of at the time.

23 And the fact that I worked for Accenture  
24 and was in a leadership capacity there, he was  
25 really excited, because I would take over a

Page 44

1 program that was troubled. It was down to 20  
2 students. Over a two-year period, I built it  
3 up to 80 students. So, you know, he knew that  
4 he was hiring someone who had previous  
5 experience in these areas of management,  
6 consulting, HR, you know, and talent  
7 development.

8 Q. Did he describe what the focus of  
9 the position would be? Like would it be  
10 teaching or anything -- or what would be --  
11 what was the focus of the position?

12 A. He said that, "We can't pay you  
13 what you're really worth. You're taking quite  
14 a pay cut but we will -- in return there's a  
15 very select number of faculty that we invite  
16 into the executive ed team. And you might be  
17 able to make up some of that pay by working  
18 across the university and outside with  
19 companies like Honda," which I did, "and with  
20 Nationwide," and so on.

21 So he provided scope boundaries. It  
22 wasn't too definitive around daily roles and  
23 responsibilities. He said, "You know, you  
24 develop your own stuff," until we got to  
25 talking about Crucial Conversations. And he

Page 45

1 said, "Well, I've been trying to get that for  
2 years in here." And I said, "Would you be  
3 interested in me trying to bring that in," and  
4 he said, "Yeah, that would be great."

5 So fast forward. So I was not developing  
6 all the material in Crucial Conversations, but  
7 I was definitely behind it especially around  
8 the role of things like apologies and the power  
9 of a good apology. And I also had shared with  
10 him that I have other things that I would want  
11 to bring in; and I just said, In general on a  
12 high level around executive presence and about  
13 leadership resilience, but that was just as an  
14 aside. I did submit -- in order for the course  
15 to be approved and accredited, I submitted  
16 content around what I would do in executive  
17 presence in terms of respectful touch and space  
18 management and so on.

19 Q. Did Ben Tepper, during your  
20 interview, go over any of the expectations or  
21 standards that you would be needing to meet in  
22 your role as a senior lecturer?

23 A. If you wouldn't mind giving me an  
24 example of that.

25 Q. Did he say -- like did you have to

Page 46

1 come in so many days a week? Would you have to  
2 teach so many courses? How would your --

3 A. Sure.

4 Q. -- performance be tracked? Those  
5 kind of things.

6 A. Okay. So he said --

7 MR. PETROV: So just --

8 THE WITNESS: Oh, go ahead.

9 MR. PETROV: -- you can answer  
10 that question. I'm just pointing out for the  
11 record, that was three questions you were given  
12 and you can answer them if you followed them --

13 THE WITNESS: Thank you. Yeah.

14 MR. PETROV: So go ahead.

15 BY MR. STOUFFER:

16 A. So he had spoken to the course  
17 load. And it turned out that while he had  
18 initially stated that you'd be teaching five  
19 classes, I taught as many -- I think one  
20 semester I taught eight classes. I kind of  
21 broke the record in terms of number of classes  
22 amongst also volunteering to be an advisor to  
23 the investment club and an advisor to the  
24 consulting club, an advisor to a number of  
25 other roles, so.

Page 47

1           Q.        Okay.  So anything else he  
2 discussed as far as standards and expectations,  
3 outside of what you just mentioned?

4           A.        No.

5                    - - - - -

6                    (Thereupon, Deposition Exhibit 2,  
7 04/21/2015 Letter To Mark J.  
8 Sullivan From Anil K. Makhija and  
9 John W. Berry, Bates Numbers  
10 OSU\_000029-000030, was marked for  
11 purposes of identification.)

12                  - - - - -

13           Q.        Okay.  I'm going to give you what's  
14 Defendant's Exhibit 2.  Just take a moment to  
15 look it over and let me know when you're done  
16 reviewing.

17           A.        Okay.

18           Q.        Do you recognize Defendant's  
19 Exhibit 2?

20           A.        Vaguely.  It's quite a while ago --

21           Q.        And what is it?

22           A.        -- but I do remember, there's a  
23 little what might be viewed as a discrepancy,  
24 so --

25                    MR. PETROV: His question is, What

Page 48

1       is Exhibit 2.

2           A.     So this is an offer letter or  
3 confirming of an offer.

4           Q.     For what position? And to whom?

5           A.     For senior lecturer for me.

6           Q.     And is there a term of employment  
7 in the letter?

8           A.     So what are you --

9           Q.     I'm asking: Is this position  
10 that's being offered in this letter stating  
11 that there's a term or a length of time for the  
12 position?

13          A.     Yeah, I know where you're going.

14           So it was a contract position but there  
15 was -- within the interview hiring -- if you'd  
16 permit me to go back and add one thing. He did  
17 say that while it's a multiyear contract -- so  
18 that's how they officially started you off,  
19 with two years -- there was, We have a lot of  
20 needs here and we would most likely -- as they  
21 did with me, they had me set up to do many  
22 courses beyond -- and teaching load beyond the  
23 end of the contract.

24           So I might be signing a document that  
25 says it starts and ends here but -- at a

Page 49

1       certain place, but they were quite clear with  
2       me that they needed me beyond what was official  
3       on paper with all kinds of teaching course load  
4       for the next fall and the next spring, so on.

5           Q.     And looking at the second paragraph  
6       in the letter, it looks like the second  
7       sentence. Can you read that, please?

8           A.     Yeah. So that's what I'm speaking  
9       to. So as it says, "This is a non-tenure-track  
10      appointment," blah-blah-blah, so it is -- what  
11      it doesn't say here is that, we'll be in  
12      trouble if you don't stick around beyond the  
13      dates that are here.

14          Q.     On the second page, can you confirm  
15      that's your signature?

16          A.     Yes, yeah.

17          Q.     Then it appears there's a signature  
18      of Anil Makhija, correct?

19          A.     Yes.

20          Q.     And that is one of the individual  
21      defendants in this case, correct?

22          A.     Yes, yes.

23          Q.     Okay.

24          A.     Only when it's appropriate, I have  
25      one additional comment about this. I'm trying

Page 50

1 to learn to not interrupt you.

2 Q. Does it relate to one of my  
3 questions?

4 A. Your first question which --

5 Q. Okay. Go ahead.

6 A. So it says here in the first  
7 paragraph, The annual salary of 130,000 for  
8 nine months but what -- in the interview, what  
9 Ben Tepper, my hiring manager, made clear was,  
10 through executive ed, he could definitely offer  
11 much more than that but that was -- but this  
12 was the -- I mean, he was in a position of  
13 trying to attract me to come to OSU. I was in  
14 a position of having to do a pay cut. So he  
15 kind of met me in the middle and was true to  
16 his word in that regard, in terms of getting me  
17 on executive ed and making more money.

18 Q. Okay. But the letter does  
19 say, 130 --

20 A. Right.

21 Q. -- is that what you were paid for  
22 your nine months -- or in the nine-month  
23 period?

24 A. Yeah. If you look at it, you'll  
25 see that I was paid a higher rate than that,

Page 51

1 because they included the executive ed pay in  
2 the overall income. So I guess you can say,  
3 yes, and then some.

4 Q. Was executive ed, you said, the  
5 executive education program?

6 A. Yes.

7 Q. Were you compensated separately for  
8 that then?

9 A. No. It was merged in. So as part  
10 of my STERS compensation, I was -- it was  
11 treated as part of my overall earnings  
12 potential. So I had my regular teaching  
13 salary, which would be represented by whatever  
14 the contractual term was for that period of  
15 time, but was folded into that from a STERS  
16 standpoint was the exec ed. And that was a  
17 material difference because I would have an  
18 increased pension based on the executive ed.

19 Q. Okay. And did you start in that  
20 program when you were first hired on then?

21 A. Yes.

22 Q. Okay. And then did you stay in  
23 that program the entirety of your time at OSU?

24 A. No.

25 Q. When did you stop participating in

Page 52

1       that program?

2           A.     When they told me I could no longer  
3     participate in it, which was the last year. I  
4     mean, there were people that wanted me to  
5     continue to teach in executive ed. What I was  
6     teaching was popular and yet the new director  
7     of exec ed said she was told that she could no  
8     longer hire me because of my -- because of this  
9     situation.

10          Q.     So when did this conversation take  
11     place?

12          A.     With the director of exec ed?

13          Q.     Yes.

14          A.     It was near the end of my  
15     termination.

16          Q.     So is that 2022, 2021? When did  
17     this happen?

18          A.     It was somewhere between then. So  
19     it was my last year. It was, I would say,  
20     probably winter, early spring of 2022. I left  
21     May 14 of 2022, was my last day of being on OSU  
22     employment, payroll.

23          Q.     So with the executive ed program,  
24     does that mean that you weren't able to  
25     participate that spring semester?

Page 53

1           A.       Right.  And also, I was looking at  
2 future.  One of their major clients, Honda, was  
3 very interested in me teaching in a bigger way  
4 and even on campus in Marysville and they said,  
5 no, they couldn't do that.

6           Q.       What was the name of the director  
7 who told you this?

8           A.       I'm not sure who -- who it was at  
9 the time, but it was a new director.  So she  
10 probably -- I would imagine you could find out.

11          Q.       But it was a woman, though?

12          A.       Yes.

13          Q.       Okay.  And was this conversation  
14 verbal or in writing?

15          A.       It was verbal.

16          Q.       Verbal.

17          A.       And she, you know, basically said,  
18 I've been told that I can't hire you anymore --  
19 you can't do any more exec ed.

20          Q.       And was there anyone else in the  
21 room, when this conversation happened?

22          A.       No.  It was just the two of us.  
23 But I did also mention it to Ben Tepper; that,  
24 is it correct, my understanding, that I can no  
25 longer do exec ed?  And he said, quote -- I'm

Page 54

1 speculating this is exactly what he said, but  
2 it was something to the effect of, Yeah,  
3 something like that. I'm not exactly sure, but  
4 probably.

5 Q. When you say you're speculating, do  
6 you mean that you don't --

7 A. I can't say the exact words, but  
8 those are pretty close to his words. Ninety  
9 percent confidence level that he said that.

10 Q. Was that also early in the spring  
11 semester of 2022?

12 A. Yeah, when I found out that --  
13 after that conversation with the director of  
14 exec ed.

15 Q. Did you reach out to have a meeting  
16 or was this in a phone call or an email, with  
17 Ben Tepper?

18 A. Yeah, that was in-person phone --  
19 in-person conversation.

20 - - - - -

21 (Thereupon, Deposition Exhibit 3,  
22 06/28/2017 Memo To Mark Sullivan  
23 From Peter Ward, Bates Number  
24 OSU\_002433, was marked for purposes  
25 of identification.)

Page 55

1

- - - - -

2

Q. Okay. I'm going to hand you what's  
been marked Defendant's Exhibit 3. Just take a  
moment to review that.

5

A. Okay.

6

Q. Do you recognize Defendant's  
Exhibit 3?

8

A. Vaguely.

9

Q. Is that your signature at the

10 bottom?

11

A. Yes. Or it must be DocuLink.

12 That's not how I usually sign.

13

Q. It was DocuSigned by --

14

A. DocuSign, yeah. Okay.

15

Q. Is that a program you would have  
used in and around this time to sign documents?

17

A. Yes.

18

Q. Okay. And what is this exhibit?

19

A. So this was one of the dean's  
programs where he had Peter, Peter Ward that  
was responsible for doing a lot of exec ed and  
consulting exec ed. And Peter was interested  
in having me work with Tata over in India, Tata  
Motors. So he was -- so this was probably a  
document that was contractually --

Page 56

1                   MR. PETROV: Mark, just read the  
2 document.

3                   Q. I'm just asking what the document  
4 is.

5                   A. So it's an employment contract, I  
6 guess.

7                   Q. It says, "Reemployment" --

8                   A. Okay.

9                   Q. -- in the Re: category.

10                  A. Okay.

11                  Q. And then it appears -- and correct  
12 me if I'm wrong. It appears to be giving you a  
13 term of employment from September 1, 2017,  
14 through August 31, 2019, correct?

15                  A. Yeah, yeah.

16                  Q. So this was for another two-year  
17 term?

18                  A. Yes.

19                  Q. Does Exhibit 3 appear to be a true  
20 and accurate copy of what would have been your  
21 first reappointment letter?

22                  A. I gather so.

23                  MR. PETROV: Well, actually,  
24 David, I'm sorry. Not to interrupt.

25                  But that raises just a brief

Page 57

1 recordkeeping point. So Exhibit 3 has an OSU  
2 Bates number on it --

3 MR. STOUFFER: Yes.

4 MR. PETROV: -- and I have no  
5 problem with you asking him questions about  
6 what he recognizes of course. But am I correct  
7 that OSU -- you're not challenging the  
8 authenticity in this case of documents that  
9 have OSU Bates numbers that it produces. Is  
10 that right?

11 MR. STOUFFER: I'm not. I'm just  
12 putting on the record that he recognizes the  
13 documents, he authenticates them. We can just  
14 dispense with that, so.

15 MR. PETROV: Okay. All right.  
16 Thank you for that clarification. I appreciate  
17 it. And I'll stay out of your way on questions  
18 like that going forward.

19 - - - - -

20 (Thereupon, Deposition Exhibit 4,  
21 04/02/2019 Memo To Mark Sullivan  
22 From Anil Makhija, Bates Number  
23 OSU\_000057, was marked for purposes  
24 of identification.)

Page 58

1 BY MR. STOUFFER:

2 Q. All right. I'm going to hand you  
3 Defendant's Exhibit 4.

4 MR. STOUFFER: (Handing.)

5 MR. PETROV: Thanks.

6 Q. Let me know when you're done  
7 reviewing Exhibit 4.

8 A. I'm done.

9 Q. Okay. This appears to be the  
10 second reappointment letter. And is that your  
11 signature at the bottom?

12 A. Yes.

13 Q. And is it correct that it appears  
14 that the term of this reappointment was  
15 September 1, 2019, through August 31, 2021?

16 A. Yes.

17 Q. Does this appear to be a true and  
18 authentic copy of your April 2, 2019,  
19 reappointment letter?

20 A. Yes, yes, yes.

21 Q. Okay. And, by the way, as far as  
22 the signature goes, is that signature down  
23 there more of what you remember as your  
24 signature or is that -- because it's slightly  
25 different than the last one.

Page 59

1                   MR. PETROV: Object to form.

2                   But go ahead, Mark. You can answer if  
3 you understand the question.

4                   A. It's close enough.

5                   - - - - -

6                   (Thereupon, Deposition Exhibit 5,  
7 04/22/2021 Memo To Mark Sullivan  
8 From Anil Makhija, Bates Number  
9 OSU\_000058, was marked for purposes  
10 of identification.)

11                   - - - - -

12                  Q. All right. I'll hand you what's  
13 been marked as Defendant's Exhibit 5. Let me  
14 know when you're done.

15                  A. Okay. Done.

16                  Q. Okay. Under the Re -- under the  
17 line for, Regarding, it says, "Reappointment,"  
18 and also, the date is April 22, 2021, correct?

19                  A. Yes.

20                  Q. And that's your signature at the  
21 bottom?

22                  A. Yes.

23                  Q. And is it correct it appears that  
24 this letter is notifying you of a reappointment  
25 as a senior lecturer from August 15, 2021, to

Page 60

1       August 14, 2022?

2           A.       Yes.

3           Q.       And that's for one year, correct?

4           A.       That's right.

5           Q.       And the prior reappointment letters  
6 we examined, it said they were both two year --

7           A.       Right.

8           Q.       -- correct?

9           A.       Yeah.

10          Q.       What was your reaction, when you  
11 saw the one-year reappointment?

12          A.       So I was surprised and I asked Bob  
13 Lount, my new supervisor, who is department  
14 chair. And he said that they were moving to  
15 just one-year contracts across the board for,  
16 you know, senior lecturers.

17          Q.       So Bob Lount told you that they  
18 were moving towards one-year contracts --

19          A.       That's right.

20          Q.       -- across the board?

21          A.       Yes, for all positions, lecturer  
22 positions.

23          Q.       For all lecturer positions?

24          A.       Yeah.

25          Q.       And did you talk about this letter

Page 61

1       with anyone else?

2           A.       Yes. A lot of my peers were really  
3       concerned about this.

4           Q.       Which ones?

5           A.       I remember the gentleman who was  
6       next door to me, who was a senior lecturer as  
7       well. He taught statistics and something -- I  
8       can't -- I could come back with the name later.  
9       But this was, you know, now four years ago, so.  
10      And also, I talked to Larry Inks, who was a  
11     clinical professor. And he said, "Yeah, I  
12     believe that's what they're doing." And he  
13     said, "You know, as you know, you're qualified  
14     to be a clinical professor, but as a senior  
15     lecturer, I think that's what they're doing."

16       Q.       I apologize. Did you say, "Larry  
17     Inks"?

18       A.       Yeah. I-n-k-s.

19       Q.       And then regarding the first person  
20     you mentioned that you can't remember their  
21     name --

22       A.       Right.

23       Q.       -- when you say they were next to  
24     you --

25       A.       Physically next door.

Page 62

1 Q. -- like their office?

2 A. Their office.

3 MR. PETROV: Just let him finish.

4 Q. Okay. And did you talk to anyone  
5 else, other than Lount, the unknown professor  
6 and Larry Inks about the one-year contract?

7 A. Yeah, I believe I did but did not  
8 know -- I can't recall the names of people, but  
9 that's the message that I was getting.

10 Q. Then you also mentioned Bob Lount.  
11 And just for the record, who is Bob Lount?

12 A. He's -- he was at the time a  
13 department chair -- excuse me -- for management  
14 and HR.

15 Q. Okay. And --

16 A. -- that was for a relatively short  
17 period of time. And he was my last supervisor,  
18 before he was taken out of that position.

19 Q. And he's also one of the individual  
20 defendants, correct?

21 A. That's right.

22 Q. And then did Lount say anything  
23 else during this meeting regarding the one-year  
24 contract extension?

25 A. No. And I'm not sure if that was

Page 63

1 email or what because it was -- it was  
2 impossible to get to meet him in person. So I  
3 think that was -- I'm not positive, but there  
4 was some kind of communication in some way  
5 between the two of us and that was the message.  
6 And it was what I heard from a couple of other  
7 lecturers as well.

8 Q. So before you mentioned a clinical  
9 professor and I just kind of want to clarify  
10 for the record and kind of explore this. Are  
11 there different types of professors appointed  
12 at --

13 A. Yes.

14 Q. -- Fisher?

15 A. Yes.

16 Q. What different types of professors  
17 are there?

18 A. They come under two different  
19 categories. One is tenured and the other is  
20 nontenured. Tenured professors tend to be  
21 research professors. They are required, as is  
22 all faculty, to teach at least one course. The  
23 nontenured, the second of two, have multiple  
24 tiers in them: lecturer, senior lecturer and  
25 then a transition professor position called a

Page 64

1 clinical professor, which is in between the  
2 two. In many business schools, it's a  
3 professor of practice.

4 They have to have a Ph.D. and they should  
5 have twenty years of business experience and  
6 should have published, which I accomplished all  
7 that. I've written a couple of books, had at  
8 least 20 years and had a conversation with Ben  
9 Tepper, who was my hiring manager. And he  
10 acknowledged that I met all the requirement,  
11 but that there were only a couple of positions  
12 available and they were all filled at the time  
13 until like the last year that we were working  
14 together.

15 And he said, Yes, he knows that one of  
16 those clinical professor positions was opened  
17 but that they're trying to close -- they're  
18 trying to eliminate or not fill those  
19 positions, so. And he said he realized that I  
20 was qualified for it but that, this is not the  
21 time.

22 Q. And it was Larry Inks who said  
23 that?

24 A. It was Ben Tepper who was my --

25 Q. Ben Tepper.

Page 65

1           A. -- who was my supervisor at the  
2 time --

3           Q. Okay.

4           A. -- but Larry Inks had said in a  
5 separate conversation, "You're far more --  
6 you're very qualified for that position."

7           Q. Did you ever apply or ask --

8           A. I wasn't allowed to apply.

9           Q. Okay. How was that communicated to  
10 you, that you weren't allowed to apply?

11          A. So Ben verbally told me that. And  
12 he said, "Mark, I realize that's more money,  
13 more stature and everything, but that's the  
14 very reason why they're trying to minimize the  
15 number of those positions," that it's a higher  
16 expense for the school.

17          Q. And this conversation would have  
18 happened in, around --

19          A. A number of years ago. It was --  
20 so it was before Bob Lount became the  
21 supervisor -- or the department chair, so. And  
22 I'm guessing that it was around 2019.

23          Q. Okay. Just for the record, do you  
24 recall the time that Bob Lount was the  
25 department chair?

Page 66

1           A.       Yeah. Before they, some people  
2 would say, demoted or transferred him out. He  
3 was there for only like three years.

4           Q.       And so what years were those?

5           A.       You know, as your records probably  
6 indicate, they're somewhere around 2020 to 2023  
7 or '24, somewhere -- 2019 to 2023 or somewhere  
8 around there. Whatever your records say.

9           Q.       Okay. Did you receive --

10          A.       By the way, that was his -- I'm  
11 sorry for interrupting, but I can't help but  
12 suggest that was his first position in  
13 management. And there was many of my  
14 colleagues that were really upset with him. He  
15 wouldn't meet with us and it was just a whole  
16 bunch of things about his inability to deal  
17 with conflict or tension or issues.

18          And so they -- while they initially were  
19 turned down by loads of other tenured research  
20 professors for this position, they finally  
21 found him and got him to take the position and  
22 it was a lot -- with much conflict from my  
23 colleagues about what he was like.

24          Q.       When you say, "He won't eat lunch  
25 with us , " who is, "Us," in that statement?

Page 67

1           A.       "Eat lunch?"

2           Q.       I think you said that at the  
3 beginning, he wouldn't --

4           A.       So while he -- he did not want to  
5 spend time -- FaceTime with us, so. So an  
6 example of that, it was a tradition that at the  
7 end of the year there would be a holiday party  
8 in the department chair's house, and he  
9 canceled it. That was far too intimate for  
10 him. And instead he had a very brief meeting  
11 he was billing as, Staff update and holiday  
12 celebration. And that was kind of him. He  
13 kept his office door closed, unlike his  
14 predecessor. So I couldn't -- I tried to get  
15 to him and particularly during this whole issue  
16 and he would not meet me.

17           Q.       And what timeline or what timeframe  
18 are we talking about, this behavior?

19           A.       So this was particular -- well, he  
20 was like this no matter what. But particularly  
21 during this issue from during the fall of 2021  
22 to the spring of 2022, he would not meet with  
23 me to the extent that he chastised his  
24 assistant who tried to schedule a one-on-one  
25 appointment with me and him in person and he

Page 68

1 yelled at her -- that's what she told me -- for  
2 even attempting to try to set a meeting up.

3 Q. And when did that happen?

4 A. That happened around -- around  
5 somewhere in October of 2022 -- 2021.

6 Q. Okay. Were there any health  
7 emergencies going on in 2020 and 2021?

8 A. Yeah. So there was -- well, they  
9 were getting out of -- we were completing  
10 getting out of Covid. That was the first  
11 in-person class post Covid and when -- so  
12 anyway, that --

13 Q. Okay. Did you receive a  
14 reappointment letter after the one that we saw  
15 in Exhibit 5?

16 MR. PETROV: Which is still in  
17 front of you if you need to remember what  
18 Exhibit 5 is.

19 THE WITNESS: This one. Thank you.

20 A. I don't think so, no.

21 Q. So Exhibit 5 would have been your  
22 last reappointment letter?

23 A. Yes.

24 - - - - -

25 (Thereupon, Deposition Exhibit 6,

Page 69

1           02/25/2022 Memo To Mark Sullivan  
2           From Anil Makhija, Bates Number  
3           OSU\_002622, was marked for purposes  
4           of identification.)  
5           - - - - -

6           Q.       Okay. I'm going to hand you what's  
7           been marked as Defendant's Exhibit 6.

8           A.       Okay.

9           Q.       Let me know when you're done  
10          reviewing the document.

11          A.       Done.

12          Q.       Okay. And what is Exhibit 6?

13          A.       So it's a termination notice,  
14          nonrenewal notice.

15          Q.       And you received Exhibit 6?

16          A.       Yes.

17          Q.       And was that on February 25, 2022?

18          A.       I guess so, yeah.

19          Q.       And then it says -- the title of  
20          the document is, "Associate Faculty  
21          Appointment-Nonrenewal Notification Letter."

22          A.       Yes.

23          Q.       And it says that your appointment  
24          as senior lecturer will end on May 14, 2022.

25          A.       Um-hum.

Page 70

1           Q.       And then when you received this  
2 letter, were you surprised?

3           A.       I was disappointed. So I had a  
4 meeting with -- a ten-minute phone appointment  
5 with Bob Lount on, I believe February 22 where  
6 he said that, "You are not being renewed, your  
7 contract." And when I of course asked him why  
8 and so on, he said, "Well, you can find out  
9 from HR, but your, you know, classroom behavior  
10 and performance."

11          Q.       Did you ask him for any specifics?

12          A.       You bet I did. And he said, "Well,  
13 you can" -- this was classic Bob. He said,  
14 "Well, I really don't want to talk about that.  
15 You can talk to HR. But, yes, you are being  
16 let go because of" -- in so many words he said,  
17 You are being let go because of what you taught  
18 and how you taught it in the Crucial  
19 Conversations class.

20          Q.       So that's what he said during a  
21 phone call with you?

22          A.       Right.

23          Q.       And that phone call happened when?

24          A.       It was about February 22 of 2022.

25          Q.       And so this letter is dated

Page 71

1 February 25.

2 A. He said that I would be getting  
3 this letter in the mail or email or physical  
4 mail or something.

5 Q. So this letter wasn't the first  
6 notice you received of your nonrenewal?

7 A. Right.

8 Q. When did you first learn of your  
9 nonrenewal?

10 A. It was on that day of the 22nd is  
11 when he, you know -- so I was told three  
12 different times. And the first time was -- was  
13 this date of February 22, over the phone over a  
14 ten-minute HR status.

15 Q. Did you call Bob Lount or did Bob  
16 Lount call you?

17 A. He called me. We had -- he had  
18 asked, much to my surprise, that he wanted to  
19 actually talk to me. And so the purpose of  
20 that talk was to let me go --

21 Q. Okay. And --

22 A. -- the last time he had talked to  
23 me was in September during week 5 of my 15-week  
24 course where for another about ten minutes had  
25 basically when he said he was being forced to

Page 72

1 call because HR wanted him to call me and find  
2 out what's going on in the class. I explained,  
3 you know, that I was doing role plays and  
4 simulation and explained what was behind all  
5 that. And he said, "I get that. I understand,  
6 you know, that's part of your course. Just  
7 continue doing that. It sounds fine and  
8 reasonable to me. Just carry on." And the  
9 last time I heard from him after that  
10 September, ten-minute phone call was on  
11 February 22, when he was letting me go. At no  
12 other time he would meet with me.

13 Q. Okay. You also mentioned that  
14 Lount mentioned performance, correct?

15 A. I'm not sure if he used that word  
16 but, behavior; that the behavior, what was  
17 going on in the class, there was questions or  
18 issues around the class and that you're being  
19 let go because of that. You can talk to HR  
20 further about any -- any more of your  
21 questions.

22 Q. Did he give any more detail as far  
23 as performance or behavior other than --

24 A. I wish he would.

25 Q. -- other than the incident you're

Page 73

1 referring to?

2 A. No --

3 Q. No. Did you ask --

4 A. -- but he said --

5 Q. -- for more detail?

6 A. Of course. And he said, "You're  
7 being let go because of how you acted in the  
8 class, and you can talk to HR to learn any more  
9 detail." And I said, "Can you give me an  
10 example? Could you share what -- what  
11 specifically? It sounds like there's been some  
12 behind-the-curtain conversations around this  
13 and no one is coming to me. And I've tried to  
14 get ahold of you multiple times and you would  
15 not meet with me." And he said, "Are you done,  
16 because I am? Just call the -- call HR for any  
17 more details."

18 Q. Okay. And so no more details were  
19 provided by Lount at that time during that  
20 phone call?

21 A. Right. He just said it was because  
22 of my classroom teaching practices.

23 Q. Did you talk to anyone else about  
24 not being renewed after being told on  
25 February 22, 2022?

Page 74

1           A.       So I talked with Dr. Larry Inks,  
2 who was having problems himself. He was --  
3 he's a clinical professor and they wanted to --  
4 I guess they did cut his pay in half. And so  
5 we were kind of going back comparing notes and  
6 things.

7           Q.       And what did you tell -- or when  
8 did your meeting happen with Dr. Inks?

9           A.       That was by phone. It was during  
10 that spring of 2022. I felt this was a private  
11 and privileged matter. I knew that if I had  
12 made this public that there would be a major  
13 student initiative of sorts, that -- humbly  
14 said, I was considered a beloved, excellent  
15 professor and I knew that there would be -- and  
16 I didn't want a scene.

17           I was trying to look at, what is the most  
18 constructive way without creating -- there  
19 would be a lot of noise and could be even brand  
20 issues. I knew the school newspaper, Lantern,  
21 would love to get a story like this and have  
22 this public. And so I kept this pretty quiet  
23 and maybe that's to my disadvantage here but --  
24 so I didn't go around blabbing about this. I  
25 think there were -- I think he may have said

Page 75

1 something to a couple of people. I don't know.

2 Q. Okay. So other than Lount and  
3 Inks, anyone else you talked to about being  
4 non-renewed?

5 A. Just that statistics professor next  
6 door to me. Again, I'm sorry, I can't think of  
7 his name right now but -- but we had somewhat  
8 of a privileged relationship in sharing typical  
9 things about employment in an organization and  
10 he -- like he would say --

11 MR. PETROV: Mark, his question was  
12 just, did you talk to anybody else other than  
13 Lount and Inks.

14 A. Yeah, so just this one other  
15 person.

16 Q. Okay. And that was it?

17 A. Yeah.

18 Q. Okay. You mentioned there were  
19 multiple -- and I just want to seek  
20 clarification -- there were multiple times you  
21 were notified of your nonrenewal; the phone  
22 call with Lount, the letter. And then is there  
23 another one?

24 A. So Ben Tepper and also Anil  
25 Makhija. So Ben Tepper on May 14 at 2:00, he

Page 76

1 had spoken with me about this. And then Anil,  
2 before I left.

3 Q. Was the conversation with Tepper on  
4 May 14 in person?

5 A. Yes.

6 Q. Okay. And what did you discuss  
7 with Ben Tepper?

8 A. Why was I leaving. And he said,  
9 "Mark, I am so sorry this happened to you.  
10 This happened to me. I was also charged with a  
11 student and I -- you know, for practices in the  
12 classroom." We were both leadership  
13 professors, even though he also held an  
14 administrative role as a senior associate dean  
15 and was my previous hiring manager. And he  
16 said, "I'm sorry this happened to you. And  
17 that I, too, also was being challenged with a  
18 student in terms of my practice -- practices in  
19 my ways of engaging them in class. And I went  
20 to leadership and got that immediately fixed.  
21 But I was insulted that I would be in this  
22 situation and I felt like quitting, but that  
23 was" -- so he said, "I'm sorry this happened to  
24 you but that's" -- you know, that's it. I did  
25 ask him -- of course I asked him a number of

Page 77

1 other things like, well, why -- why not me, why  
2 couldn't you or someone help fix me?

3 Q. What else did you discuss as far as  
4 the other number of things that you discussed  
5 with him? What were those things?

6 A. Well, that is what it was focused  
7 on, was the fact that -- that I was being fired  
8 because of how I was teaching in class.

9 Q. And that's what Tepper said?

10 A. In his own way, yes.

11 Q. What do you mean, "His own way"?

12 A. Well, I can't quote every word,  
13 but, you know, when he said, "I'm sorry that  
14 this happened to you as well, I, too, was  
15 challenged by a student for how I was  
16 teaching." So he was saying, you're being let  
17 go because of how you are teaching in your  
18 class.

19 Q. Regarding Tepper's -- the  
20 situation -- I'm going to strike that.  
21 Regarding the student that Tepper allegedly  
22 stated had made a complaint --

23 A. He did say it.

24 MR. PETROV: Let him finish --

25 THE WITNESS: Okay.

Page 78

1                   MR. PETROV: -- let him finish the  
2 question so you understand what he's asking.

3                   THE WITNESS: Sorry, sorry.

4 BY MR. STOUFFER:

5                   Q. -- made a complaint about him, what  
6 details do you know about that student and that  
7 situation?

8                   A. I don't. About his student?

9                   Q. About his student --

10                  A. Yeah.

11                  Q. -- about that situation.

12                  A. I don't.

13                  Q. Do you have any idea as to the  
14 timeline of when that occurred to Tepper?

15                  A. I'm imagining that it was sometime  
16 within that spring of 2022, yeah.

17                  Q. Okay. Anything else you discussed  
18 with Tepper at that meeting?

19                  A. No.

20                  Q. Okay. And then you mentioned  
21 talking to Makhija on your way out --

22                  A. Yeah.

23                  Q. -- or near the end of your term.

24                  A. Yeah.

25                  Q. Approximately when did that happen?

1           A.       That was near my last days of  
2 working there. So my last day was, you know,  
3 that May of 2022. And so it was sometime near  
4 that time period and he took about 10 minutes,  
5 maybe 12 minutes. And I asked him point blank,  
6 I said, "Anil, Why am I losing my job here?  
7 Why are you firing me?" And he responded with,  
8 "Well, there's, you know, a lot of -- a lot of  
9 work here to look at what happened and it  
10 seemed like it was because of how you taught  
11 your class."

12           And I asked him more, about what -- so  
13 can you give me examples, can you give me  
14 detail. And he said, "You know, it's best if  
15 you have that conversation with HR. There's,  
16 you know, a number of parties involved in  
17 this." And I said, "Well, I realize you're a  
18 busy man, sir. But, Anil, if there's anything  
19 you can do, I always went out of my way to help  
20 when you guys needed it. Instead of teaching  
21 five courses, I taught seven and even eight and  
22 I helped you. And this would be the time when  
23 you could help me by at least looking into it."  
24 And he said, "I -- I think you better take this  
25 up with HR."

Page 80

1           Q.        Okay.  Was there anything else that  
2 you talked about with Makhija at that meeting?

3           A.        It was just the reason I was being  
4 let go and his saying that it was his -- his  
5 acknowledgment that it was teaching -- my  
6 teaching the class was the problem and that  
7 they were letting me go because of that,  
8 because of how I was teaching the class.

9           Q.        And there was nothing else, other  
10 than that discussed about the decision for your  
11 nonrenewal in that conversation?

12          A.        Right.

13           MR. STOUFFER:  I have one more  
14 exhibit and then we'll take our first break.

15           MR. PETROV:    Okay.  I was just  
16 going to ask.  That makes sense.

17           MR. STOUFFER:  This will be quick.

18                    - - - - -

19                   (Thereupon, Deposition Exhibit 7,  
20 08/18/2021 Memo To Mark Sullivan  
21 From Anil Makhija, Bates Number  
22 OSU\_002434, was marked for purposes  
23 of identification.)

24                    - - - - -

25            Q.        I'll hand you what's been marked as

Page 81

1      Defendant's Exhibit 7. And let me know when  
2      you've finished reviewing Exhibit 7.

3            A.        Okay.

4            Q.        So do you recognize Exhibit 7?

5            A.        Yes.

6            Q.        And what is Exhibit 7?

7            A.        It's a merit compensation -- annual  
8      merit compensation document.

9            Q.        And it appears to be titled, "2021  
10     To 2022 Annual Merit Compensation," correct?

11           A.        Yes.

12           Q.        And then down at the bottom in the  
13      chart on the far right side it says, "2021  
14     To 2022 Base Salary," correct?

15           A.        Yes.

16           Q.        And then it lists \$160,131.07 as  
17      your base compensation.

18           A.        Yes.

19           Q.        And then was that your final salary  
20      at OSU?

21           A.        Yeah. So there is an executive ed  
22      income stream. And I think that for purposes  
23      of the annual merit compensation summary  
24      document, which I would construe this as being,  
25      that they would list just the base salary and

Page 82

1 not include the executive ed income stream  
2 whereas in STERS, if you looked at that, it  
3 would be -- it would include both.

4 Q. And as far as the executive ed  
5 compensation, was that awarded to you by  
6 semester or by academic year or --

7 A. By pay period, I believe --

8 Q. By pay period. Was --

9 A. -- so, for example, if I taught a  
10 course in this month for Honda, for example,  
11 then next month or thereabouts would receive a  
12 differential, increased pay that would reflect  
13 my teaching at Honda.

14 Q. Okay. And then does this appear to  
15 be a true and accurate copy of your 2021  
16 to 2022 annual merit compensation letter?

17 A. Yes, yes.

18 MR. STOUFFER: Okay. We can take  
19 that break. Thank you.

20 VIDEOGRAPHER: Off the record. The  
21 time is 11:47.

22 (Recess taken.)

23 VIDEOGRAPHER: We're back on the  
24 record. The time is now 12:08.

25 BY MR. STOUFFER:

Page 83

1           Q.       All right. By the way, I forgot to  
2 ask at the beginning: Do you prefer to be  
3 called, "Mark," "Dr. Sullivan," or, "Professor  
4 Sullivan"?

5           A.       Thank you for asking. For our  
6 purposes, "Mark," is fine --

7           Q.       "Mark," is fine?

8           A.       -- or -- yeah. I respond to  
9 anything as long as you're looking at me.

10           MR. PETROV:     First names are  
11 common in depo's --

12           THE WITNESS:    Yeah.

13           MR. PETROV:    -- as long as you're  
14 comfortable with it.

15           THE WITNESS:    Yeah.

16 BY MR. STOUFFER:

17           Q.       Okay. Mark, do you recall we just  
18 talked about you had conversations about your  
19 nonrenewal letter, correct, Exhibit 6? You  
20 listed Dean Makhija, former Dean Makhija, you  
21 listed Ben Tepper and Robert Lount; and you  
22 said that one or more of those individuals  
23 recommended you talk to HR, correct?

24           A.       That's right.

25           Q.       Did you contact HR about it?

Page 84

1           A.       I attempted to multiple times.

2           Q.       When did you attempt to contact HR?

3           A.       So in the fall and spring  
4 of 2021, 2022, I walked down to the HR suite in  
5 the Fisher building, Fisher Hall. And every  
6 time that I was there, unlike pre Covid -- this  
7 is post Covid -- the door was locked and you  
8 weren't allowed in. I actually -- one or two  
9 times I kind of got in when someone else was  
10 going in that was not in HR but was in the  
11 suite and couldn't find anybody from HR, so --

12          Q.       And so --

13          A.       -- I wanted an in-person  
14 conversation to have some follow-on questions  
15 to ask them, what's going on here, and, what --  
16 what kinds of conversations are you having with  
17 who, and, what are they saying about me, and,  
18 what are you saying about me. And I couldn't  
19 get that.

20          Q.       Okay. So I want to take a step  
21 back. So you said fall of 2021 and spring  
22 of 2022?

23          A.       Yeah, so around November.

24          Q.       And so I'm asking specifically when  
25 you were notified of your nonrenewal, so that

Page 85

1       would have been --

2           A.       Okay.

3           Q.       -- February 22 --

4           A.       Yes.

5           Q.       -- of 2022, correct?

6           A.       Yes.

7           Q.       After that point, did you reach out  
8 to HR about your nonrenewal?

9           A.       Yes.

10          Q.       And when did you reach out?

11          A.       So multiple times right after --  
12 like I say, within the next month or two  
13 months, I went down to the HR suite multiple  
14 times to see if I could catch a way of getting  
15 in and talking with them.

16          Q.       And how did you try to communicate  
17 with HR?

18          A.       I also was able to actually have a  
19 brief phone call with William Wattercutter, who  
20 appeared to me as being kind of an outlier,  
21 like wasn't in a position to share a lot of  
22 details. And so I would ask him like, Bill,  
23 what's going on here. And he knew me more in  
24 somewhat of a familiar stranger, friendly way.  
25 And I said, "Can you help me out here? What's

Page 86

1 going on?" And he said, "Well, you know,  
2 there's a number of different things. It  
3 probably best to talk to McConnell," or whoever  
4 that other lady was, Jeannine or, but it went  
5 nowhere basically. That was it.

6 Q. Did you try to email anyone?

7 A. I think there was an email of  
8 inquiry. It's a little fuzzy right now, but I  
9 was really eager to try to get some kind of  
10 response -- definitive response as to what my  
11 future was and so on.

12 Q. And did you receive a response from  
13 Fisher or OSU's HR department?

14 A. Well, outside of verbal responses  
15 and exchanges from Makhija, Lount and Tepper in  
16 those face-to-face conversations, I just -- you  
17 know, there may have been an email. I don't  
18 know. But I tried with Bill Wattercutter and  
19 I'm not sure. There was some lady that was in  
20 HR and -- but, you know, I had a hard time  
21 getting into the HR suite.

22 Q. Do you remember approximately when  
23 that conversation with Bill Wattercutter  
24 happened?

25 A. I'm speculating it was sometime

Page 87

1 around March or -- or April.

2 Q. Of '22?

3 A. Of '22.

4 Q. Okay. And then what did  
5 Mr. Wattercutter say?

6 A. Well, so to try to follow up, so  
7 the main thing was, You need to talk to so and  
8 so, the lady from HR, to get any more specific  
9 details. But I did send him -- I did send him  
10 an email that showed -- and this was in May --  
11 a testimonial. It was a student initiated  
12 testimonial deck about my teaching a Crucial  
13 Conversation class that was held at -- like my  
14 last class. And he commented, "That's a great  
15 deck and something I'm sure you're proud of,"  
16 and I said, "Yes."

17 Q. Did he mention anything else about  
18 your nonrenewal?

19 A. No.

20 Q. Okay. Since the spring semester,  
21 so February through May of 2022, have you tried  
22 to reach out since your separation to the HR  
23 department regarding this issue?

24 A. No.

Page 88

4

5 Q. Okay. I'm going to hand you what's  
6 been marked as Defendant's Exhibit 8. Just  
7 take your time and let me know when you're done  
8 reviewing it.

9

10 THE WITNESS: May I ask a question  
11 about whether or not this is Judge Watson's  
12 opinion?

13

14 | opinion --

15

THE WITNESS: Oh,

16

17

18

10

88

Page 89

1 ahead and ask the questions that you have about  
2 it.

3 MR. STOUFFER: All right.

4 BY MR. STOUFFER:

5 Q. All right. Looking at the first --  
6 well, first off, what is Exhibit 8?

7 A. It appears to be a summary opinion  
8 of my case.

9 Q. If you look at the first page on  
10 the right side under the Judge's name, what  
11 does it say there?

12 A. The, "Third Amended Complaint." Is  
13 that what you're --

14 Q. Yes. And so, to your knowledge, is  
15 this the latest complaint that has been filed  
16 in your case?

17 MR. PETROV: Objection, foundation.

18 You can answer if you know.

19 THE WITNESS: Okay.

20 A. I believe that's, yes.

21 Q. Okay. And then on the left side of  
22 the first page, there's a number of individuals  
23 listed: Anil Makhija, Robert Lount, Bennett  
24 Tepper, Jennifer McLendon, William  
25 Wattercutter, and then there's unknown

Page 90

1 personnel 1 through 5, which I'm not going to  
2 ask about. So those first five individuals,  
3 those are the individual defendants in this  
4 case?

5 A. Yes.

6 Q. Okay. Is Jennifer McLendon the  
7 woman from HR that you were referring to?

8 A. Yes.

9 Q. Okay. Do you see at the top of the  
10 page where it says, "Page ID number," colon,  
11 and it has a number?

12 A. Yes.

13 Q. Can you turn to the page that  
14 has 229 --

15 A. Excuse me.

16 Q. Bless you.

17 A. (Witness complies.)

18 Q. And then do you see where it says,  
19 "First Cause of Action"?

20 A. Yes.

21 Q. And what does it say your first  
22 claim is or first cause of action is?

23 A. "By punishing and terminating  
24 Plaintiff for expressing his views in his  
25 academic speech and educational course

Page 91

1 content..."

2 Q. So your first cause of action is a  
3 first amendment retaliation under 42 USC,  
4 section 1983?

5 A. Yes.

6 Q. And specifically you're alleging a  
7 violation of your freedom of speech?

8 A. Yes.

9 Q. Can you turn to the page ID  
10 numbered 231.

11 A. (Witness complies.)

12 Q. And you have, "Second Cause of  
13 Action," correct, on that page?

14 A. Yes.

15 Q. And it says, "First Amendment  
16 violation under 42 USC, Section 1983, content  
17 and viewpoint discrimination."

18 A. Um-hum.

19 Q. And so that's your second and last  
20 cause -- or cause of action you brought in your  
21 latest complaint?

22 A. Yes.

23 Q. Okay. And that's also based on an  
24 allegation that your rights to freedom of  
25 speech were violated?

Page 92

1           A.       Yes.

2           Q.       Okay. I want to go through the  
3 individual defendants and ask you some  
4 questions about them. So during your time at  
5 OSU, was Ben Tepper your direct supervisor?

6           A.       During part of the time, yes, yes.

7           Q.       And generally what timeframe was he  
8 your direct supervisor?

9           A.       From 2015 to 2019 or so, roughly.  
10          And I worked until 2022, so it was like  
11         from 2015, when he was my hiring manager, and  
12         then continued to be my department chair or  
13         supervisor until roughly 2019.

14          Q.       Okay. And that was during the time  
15         that Tepper was the chair of the MHR  
16         department?

17          A.       So he was -- Ben was my department  
18         chair and supervisor and hiring manager from my  
19         start date of 2015 to roughly 2019 --

20          Q.       Okay.

21          A.       -- and then they put in -- when he  
22         got promoted to a senior associate dean, he  
23         became the supervisor of my new supervisor, who  
24         is department chair Bob Lount. So Bob Lount  
25         was roughly my boss from 2019 to 2022, give or

Page 93

1 take.

2 Q. Okay. And is that how you know Bob  
3 Lount, strictly from your time --

4 A. No --

5 Q. -- as your supervisor?

6 A. -- no. We were peer -- so there's  
7 more to it.

8 Q. Okay. And then when did you first  
9 meet Robert Lount?

10 A. I first met him, I think it was the  
11 first week or two of employment. He was a  
12 research professor, tenured, and I invited him  
13 out for coffee and he -- the nature of the  
14 conversation was more about his divorce that he  
15 was going through, but then he was interested  
16 in my exec ed experience. And we then became  
17 colleagues, one of the few that was on the  
18 executive ed faculty. And we had some  
19 experiences with that where I would always be  
20 placed up first and he would follow me.

21 So he would -- I would teach Crucial and  
22 he would teach Negotiations. And he had an  
23 experience with me where the mid career, 30  
24 to 50 year old crowd, started to complain to  
25 him about his teaching, how he taught

Page 94

1 negotiating. They would say, Mark Sullivan  
2 would do something different. He would do,  
3 blah-blah-blah.

4 He then came back to me saying, "I don't  
5 want -- I don't want to ever follow you in  
6 executive ed. I need to be before you, not  
7 after you, because you're just -- there's too  
8 much that I have to deal with." And I said --  
9 and that kind of colored -- my view was it  
10 colored our relationship a bit and -- but there  
11 were a couple of other times we had -- the pay  
12 was going down from \$5,000 a day to like 4,000  
13 or something.

14 And I said, you know, all the -- I  
15 explained why we should speak up about that and  
16 he said, "Well, could you do that and go to" --  
17 so at the time he was a professor. I was a  
18 lecturer, but he wanted to see if we could get  
19 more pay, like our old pay back. And it was my  
20 opinion, although there's no concrete evidence  
21 that he was a little either threatened or  
22 frustrated around my presence for the fact that  
23 I -- you know, I had a following, a lot of  
24 students would talk about me and so on, so.

25 Q. When you say, "Following," what do

Page 95

1 you mean like --

2 A. Well, like I say, for the twice  
3 weekly 90-minute office hours, my hallway was  
4 crowded with students and some of them weren't  
5 even my students. Some of them came -- some of  
6 them were actually his students. And some of  
7 them were other students that came to seek  
8 either career advice or life counsel or  
9 something or another. And my students were  
10 often -- many of them were men without fathers  
11 or fathers that were MIA and they looked at me  
12 as kind of a guiding role in their life. So he  
13 was aware, I think of the stature that I had  
14 and I think probably -- well, I'll leave it at  
15 that.

16 Q. Okay. When your contract was not  
17 renewed, Lount was the MHR department chair at  
18 the time.

19 A. That's right.

20 Q. And so Tepper was not in that role  
21 at that time?

22 A. He was not in that role, but he was  
23 in a decisionmaking role, so. There were three  
24 signatories on the internal document, from what  
25 I understand. I think I had seen something

Page 96

1       that -- but I don't know what it was, but I  
2       heard that Ben Tepper was involved in the  
3       decision. Obviously Makheel (phonetic). I  
4       mean, Anil Makhija. And I believe either Bob  
5       Lount, as the department chair, was either an  
6       influencer or a decisionmaker. There were  
7       three people involved --

8           Q.     And so --

9           A.     -- along with HR.

10          Q.     -- this internal document, when  
11       would you have seen it?

12          A.     If -- it's vague. All I remember  
13       is that Ben Tepper had -- I was struck with the  
14       fact that he was involved in the decision. We  
15       were -- until then we were close personal  
16       colleagues and he had high regards for me. I  
17       couldn't believe that he would be involved in  
18       this without ever asking me what my opinion was  
19       or what's going -- what's going on with your  
20       teaching practice in your class. It was like  
21       they were all hidden behind a curtain and not  
22       sharing anything with me. A lot of talk going  
23       on, but they wouldn't come to me and say, you  
24       know, like what's -- what's your side of this?

25          Q.     I kind of just want to hone in at

Page 97

1 least for the moment on the internal document  
2 you referenced. What did this document look  
3 like?

4 A. I'm not sure.

5 Q. How do you know about it?

6 A. Because I just -- I was really  
7 eager to find out what was going on. And so I  
8 think near the end, near May of 2022, there may  
9 have been some document I either saw or heard  
10 about in which Ben was involved in  
11 decisionmaking.

12 Q. And what did this document discuss  
13 or -- what did this document have as far as its  
14 substance?

15 A. That three people along with HR  
16 were involved in deciding to not renew my  
17 contract.

18 Q. And was this an email or was this  
19 some memo?

20 A. I don't know.

21 Q. Did you ever see it yourself?

22 A. I'm not sure if it was something  
23 written or something that was verbal but --

24 Q. It's a, "Yes," or "No," question.  
25 Did you see the document with your own eyes?

Page 98

1           A.       For me there's three options; yes,  
2 no, or, I don't know.

3           I don't know.

4           Q.       No. This is a, "Yes," or, "No,"  
5 question. You either saw the document or you  
6 didn't.

7           A.       Then I can't answer it.

8           Q.       Well, try your best. Did you see  
9 the document?

10           MR. PETROV: Objection, foundation.  
11 He said he's not sure if there's a document,  
12 so.

13           Q.       So where did the information come  
14 from that there's an internal document?

15           A.       I don't know --

16           Q.       Okay.

17           A.       -- I just know there were three  
18 people that were involved in the decisionmaking  
19 along with HR.

20           Q.       All right. So you also have Anil  
21 Makhija listed as an individual defendant.

22           A.       Yes.

23           Q.       Who is Anil Makhija?

24           A.       He's the -- he was at that time the  
25 dean of the school --

Page 99

1 Q. All right.

2 A. -- of the college.

3 Q. And did he play a supervisory role  
4 over you?

5 A. Not officially. There were times  
6 he had asked me for help, like one time he  
7 wanted me to do an in-service training for the,  
8 quote, dean team. So he was seeking guidance,  
9 advice to have me teach some of the Crucial  
10 Conversation concepts to his team. So under  
11 that capacity, he was more of a coach in terms  
12 of the challenges that the dean team had; but  
13 generally speaking, we had more of an  
14 administrator to employee relationship.

15 Q. And can you kind of explain what  
16 this dean team is?

17 A. The dean team were individuals that  
18 were either an associate or assistant dean that  
19 would help to advise or guide the dean, which  
20 was Anil. So Ben Tepper was -- I believe he  
21 was a senior associate dean. There was another  
22 gentleman who was like the executive associate  
23 dean. And then there was, I think a couple of  
24 other associate type deans like Peter Ward was  
25 a dean for exec ed.

Page 100

1 Q. Um-hum. And what did the team do?

2 A. They executed college policy --

3 Q. Okay.

4 A. -- and officially they were  
5 supposed to provide quality assurance in the  
6 execution, provide feedback and even give  
7 feedback to people is what they were supposed  
8 to be doing.

9 Q. Okay. Did you work closely with  
10 Dean Makhiya?

11 A. Not closely but -- we had more of a  
12 familiar stranger -- I think he had high regard  
13 for me and was the one who gave me the  
14 distinguished teaching award out of all the  
15 graduate faculty members. So, I mean, I think  
16 he thought highly of me. But the school  
17 operationally was basically run by the  
18 executive dean, executive like deputy dean and  
19 also Ben Tepper.

20 And he really ran the market facing, the  
21 outside as what you would expect. You know, so  
22 he would do the fundraising. He would be  
23 involved in brand building. You know,  
24 occasionally for ceremonial things, he might  
25 come in for a deposition here or there. There

Page 101

1       were a number of different cases here and  
2       there. So he was more market facing external,  
3       stakeholders, fundraising, blah-blah-blah. And  
4       these other couple of deans were more internal,  
5       shop stewards making sure that everything was  
6       being run the right way.

7           Q.        Okay. And then you also listed  
8       Jennifer McLendon. And who is that?

9           A.        She was some kind of an HR business  
10      partner. I think -- I'm imagining that she  
11      represented OSU central and was -- would be  
12      farmed out to where needed for more sensitive  
13      issues like this within any of the 18 colleges  
14      or schools within the university.

15          Q.        And are you aware of what duties or  
16      responsibilities McLendon had at Fisher College  
17      of Business?

18          A.        No, no.

19          Q.        You do not. Okay. Did you  
20      regularly work with Ms. McLendon when you were  
21      a senior lecturer at Fisher College of  
22      Business?

23          A.        No.

24          Q.        Who is William Wattercutter?

25          A.        His last role -- so he's a

Page 102

1 full-time OSU employee in HR. He's always  
2 been, from what I understand, for a couple of  
3 decades at the Fisher College of Business. He  
4 was the HR manager full-time. And then in the  
5 OSU central reorg, he became more of like an  
6 assistant to the business partner, which I  
7 gather was probably this McLendon. So he was  
8 the primary decisionmaker. He became more of  
9 an influencer and go-to person to get stuff  
10 done that was HR related.

11 Q. Okay. And are you aware of what  
12 duties and responsibilities Mr. Wattercutter  
13 had at Fisher College of Business?

14 A. Not really.

15 Q. And then did you regularly work  
16 with Mr. Wattercutter, when you were a senior  
17 lecturer at Fisher?

18 A. Once in a great while. I mean,  
19 occasionally. So one of a number of outside  
20 the classroom activities I was called -- I was  
21 asked to do was to call on companies for --  
22 when I was teaching consulting and just I think  
23 to get advice or guidance around any issues I  
24 need to be aware of regarding my recruiting  
25 companies to be involved with consulting. And

Page 103

1       was there anything from an HR standpoint, so it  
2       was more information gathering. I think that  
3       was perhaps it.

4           Q.     Okay. Other than the one instance  
5       that you talked with Mr. Wattercutter at the HR  
6       office that we discussed earlier, have you  
7       talked to him any other time about your  
8       termination?

9           A.     No.

10          Q.     And then Jennifer McLendon, have  
11       you spoken with her at all about your  
12       termination -- or, I'm sorry -- your  
13       nonrenewal?

14          A.     I believe there was one time at the  
15       end. I think it was more around, did you get  
16       the package, or me reaching out. I had tried  
17       all different ways to get information. And so  
18       I think that was the substance of the  
19       transaction.

20          Q.     So it was just she was ensuring  
21       that you received something?

22          A.     Yeah. I received an email,  
23       documents, one of these documents that you had  
24       shared. And I had asked -- one of the things I  
25       wanted to do was get copies of my HR file and I

Page 104

1 was having trouble getting copies. And like I  
2 did ask Bill and he said, "You'll have to talk  
3 to Jennifer," I guess it is. And Jennifer said  
4 she -- I believe that she was not in a position  
5 of answering that at this time. And that was  
6 about it.

7 Q. So other than that conversation --

8 A. Nothing else.

9 Q. -- nothing else?

10 - - - - -

11 (Thereupon, Deposition Exhibit 9,  
12 12/31/2020 Position Description,  
13 Bates Number OSU\_002613, was marked  
14 for purposes of identification.)

15 - - - - -

16 Q. Okay. I'm going to give you what's  
17 been marked as Defendant's Exhibit 9. Let me  
18 know when you finished reviewing the document.

19 A. Okay. I'm done.

20 Q. Okay. Do you recognize Exhibit 9?

21 A. I don't recall. I can say, yes --

22 MR. PETROV: Well, only say, yes,  
23 if you recall seeing it.

24 A. -- I don't recall.

25 Q. Okay. I'm just going to -- for

Page 105

1       purposes here, I'm going to represent this is a  
2       position description for the senior lecturer  
3       position. In the section that says, "Detailed  
4       Job Description," it states, "Teaches  
5       undergraduate and graduate level courses in  
6       department management and human resources; may  
7       serve on department and any college  
8       committees."

9               So as far as the first clause goes, does  
10      that accurately describe the majority of your  
11      duties were teaching?

12             A.     It doesn't accurately describe my  
13      job, but it was all about teaching.

14             Q.     All about teaching. Okay. And  
15      then I think we kind of discussed this earlier.  
16      Did you ever serve on department or college  
17      committees?

18             A.     Yes.

19             Q.     And which committees were those?

20             A.     So there was something informally  
21      referred to as, the council of elders. It was  
22      the former dean, so previous to Anil. And this  
23      council was of very senior, seasoned professors  
24      providing advice, more market-facing advice for  
25      this dean emeritus whose role was to create an

Page 106

1 expanded role or amplified role in the Columbus  
2 business community. And so he picked four or  
3 five of us, met regularly for a period of time  
4 to help guide him on how we would, not just do  
5 brand building but a lot of relationship  
6 building and cultivation with the right kind of  
7 business circles within central Ohio.

8 Q. Okay. Any other department -- any  
9 other department, college committees that you  
10 served on?

11 A. Yes. So an investment -- paneled  
12 the Black Swan Investment Club --

13 Q. I'm sorry. Can you repeat that?

14 A. -- the Black Swan Investment Club.  
15 Also on a panel of judges for venturing. So I  
16 was an advisor and also a judge on the  
17 inaugural Fisher venturing conference. So it  
18 was a bunch of typical kind of business  
19 students that were -- had some venturing  
20 project and they were asking for money. And so  
21 I was on the panel of judges to give feedback  
22 on that, and was involved in helping them run  
23 that first inaugural conference.

24 Q. Okay. Anything else as far as  
25 committees?

Page 107

1           A.       So there was a council -- it was --  
2       there were these short -- this is way back, so  
3       this is more like 2016.  There was an  
4       intermediate -- a number of industry domains  
5       where there was a professor that represented  
6       that domain.  I represented the consulting  
7       domain.  And we would meet monthly to provide  
8       guidance on how the school should invest funds  
9       or staff or branding assets for these different  
10      programs that we had in these different  
11      domains.  So there was -- so I was regularly  
12      pulled in a lot of directions to do all kinds  
13      of things.

14           There was a risk institute.  I was asked  
15      to help coordinate -- help to think about how  
16      to have 200 executives from around the world  
17      come in and have some kind of meaningful  
18      conference.  And I was also a speaker there  
19      about risk and threat.  So there were things  
20      like that.  I mean, it just goes on and on.  
21      And in the nominating letter from my award, Ben  
22      Tepper wrote, that he was -- that Dr. Sullivan  
23      was pulled in many different directions.  I can  
24      come up with a much longer list, but there's a  
25      lot of different kinds of committees, aside

Page 108

1 from overloading on courses.

2 Q. How was your performance tracked  
3 each semester in carrying out your teaching  
4 duties?

5 A. Very poorly.

6 Q. Do you know the method by which  
7 they were --

8 A. Yeah. It was a very flawed method.  
9 So they only based performance on student  
10 evaluations. Never once would the person  
11 oversee -- and I'm talking as a performance  
12 management expert, as someone who in industry  
13 for years ran performance management. They  
14 never once came in to actually observe me in  
15 class the whole time. So they're coming on --  
16 and when there's an issue with a faculty  
17 member, instead of outreach and looking into  
18 what's fact and what's opinion, what's real,  
19 what's not, instead of any of that, that was  
20 like outsourced to HR. So all they did was  
21 crunch some numbers based on student evals.

22 Now, it so happened that if you look at  
23 my evaluations, you'll see they're all above  
24 average. And there's variations of course from  
25 year to year or semester to semester. It might

Page 109

1       be a little up or a little down, but it was all  
2       above average. And with Ben Tepper for those  
3       first number of years, it was always  
4       exceptional. But, you know, when Bob Lount of  
5       course came in as my supervisor seeing our  
6       history, saw that it was always above average  
7       but it was -- you know, there was some  
8       variation there.

9           Q.     So there were variations in your  
10      student eval's, you're saying?

11          A.     Well, a little bit.

12          Q.     Are those student eval's called  
13      SEI's?

14          A.     Yeah.

15          Q.     And what does that stand for, that  
16      acronym?

17          A.     Student -- I'm not sure.

18          Q.     Okay. And when are SEI's filled  
19      out?

20          A.     Usually at the end of the semester  
21      by each student.

22          Q.     And how do the students -- strike  
23      that. Are there scores that students give  
24      faculty?

25          A.     Yes.

Page 110

1 Q. And then is there a range to those  
2 scores?

3 A. Yeah. You know, it's -- now I'm  
4 kind of out of the loop, so I'm not sure what  
5 the scores are. I just know that bottom line I  
6 was always above average. And there's another  
7 way of ranking a professor that was more on  
8 line. You can go online, as my three college  
9 aged sons would tell me, is you could go on  
10 line -- Rank My Professor, I think is the name  
11 of it. I'm not positive.

12 But my boys said, Dad, you know, usually  
13 those ranking numbers for professors is really  
14 low because it's a lot of disgruntled students  
15 that don't like their experience with that  
16 professor, but yours are really amazingly high  
17 for what this is all about. I never really  
18 looked at them, but I think it's called Rank My  
19 Professor.

20 Q. Is that a private website?

21 A. I don't know.

22 Q. Other than SEI's, anything else  
23 that you remember OSU utilizing to evaluate  
24 your teaching performance?

25 A. No. Well, except for the teaching

Page 111

1 award, so that was -- at Fisher that was a big  
2 deal. So there's like 200 faculty members and  
3 they're picking only one who is considered the  
4 best teaching professor for undergrad and for  
5 graduate level. And I was selected as the best  
6 teaching professor at a graduate level. And so  
7 there was faculty in administrative review  
8 sessions to determine who was best, and I won  
9 the graduate level for that performance  
10 assessment.

11 Q. During your interview for the  
12 senior lecturer position --

13 A. Yes.

14 Q. -- did Ben Tepper discuss with you  
15 what was expected of senior lecturers as far as  
16 SEI scores?

17 A. No.

18 Q. Did he ever discuss that with you  
19 afterward, while he was still chair?

20 A. No.

21 Q. How about Robert Lount, did he ever  
22 discuss with you what your SEI scores should  
23 be?

24 A. No.

25 Q. At any time?

Page 112

1           A.       No.  What they did talk about was  
2 grading.  So when I was being hired, I asked  
3 Ben, "Do you have any policies around grading  
4 that I need to be aware of as a professor?"  
5 You know, I was thinking is there a forced  
6 thing where, you know, 10 percent have to be in  
7 this level or whatever.  And he said, "No.  
8 Just we -- that's your business, what you  
9 pick."

10          But then Bob Lount, in the last two years  
11 or so, instituted a policy where there was  
12 forced grading.  And he was not happy with the  
13 fact that I was giving what I felt were the  
14 appropriate grades to students.  He wanted only  
15 a small number -- and this was -- a lot of my  
16 peers were pretty upset with the fact that we  
17 were now being told we had to force -- no  
18 matter what they were really worth, we had to  
19 put them in some category.

20          Q.        Okay.  I'm going to stay on the  
21 SEI's for now.  Did you ever talk to your  
22 colleagues about SEI scores?

23          A.        I tended not to because I was above  
24 average and I just didn't feel that was  
25 constructive or appropriate to talk about,

Page 113

1 about that.

2 Q. And so you said, "Tended not to."  
3 Does that mean you did or did not talk to  
4 colleagues?

5 A. Well, people came to me. So, yes,  
6 people did come to me saying, Wow -- like when  
7 I became an exec ed faculty member, they were  
8 saying, Well, you must have gotten really high  
9 student eval's to become an exec ed member,  
10 which I said, Well, it was -- you know, and  
11 when I got the award for being a distinguished  
12 graduate teacher there, you know, it came up  
13 around then. There were a couple of people  
14 that said, "Wow, you must do well with your  
15 SEI's."

16 Q. Okay. So you were employed at  
17 Fisher for about seven years?

18 A. Yes.

19 Q. And in seven years, you never  
20 discussed SEI scores with either Tepper or  
21 Lount, the two department chairs that  
22 supervised you?

23 A. So let me see. Well, first of all,  
24 it was almost impossible to have any kind of  
25 communication with Bob Lount. He would just

Page 114

1 not meet with me or talk with me, so. With Ben  
2 Tepper, we didn't talk about it because it  
3 was -- if you looked at his scores, they were  
4 always exceptional, so. You know, we talked  
5 more about ideas, exercises and stories and  
6 games and things that we could do like teaching  
7 methods that would influence content, because  
8 we both were leadership professors. He had an  
9 administrative role but he was also a  
10 leadership teacher. And so we would compare  
11 notes on what could make it interesting --

12 Q. Um-hum.

13 A. -- so we talked more about that  
14 than about grades or grading. And there was --  
15 at that time there was no policy around  
16 grading.

17 Q. So sitting here today, do you  
18 recall what SEI scores you were expected to  
19 achieve in your classes?

20 MR. PETROV: Objection, foundation.

21 You can answer, Mark.

22 A. No. There's -- no.

23 Q. And were you ever made aware of  
24 that --

25 A. No.

Page 115

1 Q. -- of the expected -- okay.

2 - - - - -

3 (Thereupon, Deposition Exhibit 10,  
4 04/10/2020 Memo To Mark Sullivan  
5 From Robert Lount, Bates Numbers  
6 OSU\_000013-000014, was marked for  
7 purposes of identification.)

8 - - - - -

9 Q. I'm going to hand you Defendant's  
10 Exhibit 10. Let me know when you finished  
11 reviewing.

12 A. Okay.

13 Q. Do you recognize Defendant's  
14 Exhibit 10?

15 A. Yes.

16 Q. What is Exhibit 10?

17 A. Basically it's an evaluation.

18 Q. An evaluation of what?

19 A. Classroom performance.

20 Q. Of who?

21 A. Of me.

22 Q. And this is an annual review letter  
23 dated April 10, 2020, regarding your  
24 performance the prior academic year?

25 A. Yes.

Page 116

1           Q.        Okay. If we go down to evaluation,  
2 it lists, SEI range of 4.1 to 4.5 for a course,  
3 it looks like MHR 3100, OB/HR, correct?

4           A.        Right. It's foundation of  
5 management and human resources. So I taught a  
6 human resource course there.

7           Q.        The next one is 3200 OBHR for  
8 undergrad business majors, SEI range 4.4  
9 to 4.6?

10          A.        Right.

11          Q.        And then MHR 7236 Crucial  
12 Conversations, 2.3 to 4.9, correct?

13          A.        Yeah.

14          Q.        And then it lists the next course,  
15 which is 3632, projects for business  
16 industry, 4.1 to 4.6.

17          A.        Correct.

18          Q.        And so are those different sections  
19 of those courses that you taught?

20          A.        Those were the names of different  
21 courses that was part of my course load.

22          Q.        And then, for example, with the  
23 Crucial Conversations one --

24          A.        Oh, yeah. The answer is, yes. So  
25 for the first one, 3100 and 3200 were different

Page 117

1 sections of the same material taught to a  
2 different audience.

3 Q. Um-hum. And with the two numbers  
4 in the parentheses to 2.3 and 4.9, does that  
5 mean one class SEI scores were 2.3 and the  
6 other class was 4.9?

7 A. Yes, that's right.

8 Q. Okay. Do you remember receiving  
9 that SEI score the prior academic year,  
10 the 2.3?

11 A. Yeah, yes.

12 Q. Did that concern you, getting a 2.3  
13 or was a 2.3 acceptable in your mind?

14 A. Well, bottom line was, I was above  
15 average so I was -- you know, but I also  
16 realized that this was a flawed system. So I  
17 did not consider this to be an accurate view of  
18 my performance at all, as I continued to get  
19 letters and notes from students that were  
20 saying how much they were impacted, their  
21 personal positive impact.

22 Q. When you say the 2.3 was not  
23 accurate --

24 A. That's right.

25 Q. -- did you ever take advantage

Page 118

1       of -- and I apologize -- second-to-last  
2 paragraph, last page of Exhibit 10 under,  
3 Workload. Did you ever take advantage of the  
4 right to file anything or object to the 2.3?

5           A.     Yeah. I felt at this time that it  
6 was -- it was fruitless, that Bob was my  
7 supervisor, Bob Lount was not going to meet  
8 with me. I had tried and he -- I mean, this is  
9 one of the reasons why he was taken out of this  
10 position. I mean, I didn't feel he had the  
11 skill or the capability to --

12           MR. PETROV: Mark, his question  
13 was, did you take advantage and contact Bob.

14           A.     Yes.

15           Q.     And so you filed a -- let's see,  
16 you filed comments regarding the 2.3 in one of  
17 your sections Crucial Conversations.

18           A.     I filed an email or had reached out  
19 to him but that was it. It wasn't a -- I'll  
20 just leave it at that.

21           Q.     Did Professor Lount reach out to  
22 you to discuss the 2.3 at all?

23           A.     Absolutely not --

24           Q.     Okay.

25           A.     -- neither did he reach out to me

Page 119

1       when I had exceptional scores, positive or  
2       high, high or not. He never would reach out to  
3       me.

4           Q.        Okay. And the range of SEI scores,  
5       is a 4 considered high?

6           A.        Yes.

7           Q.        What about a 3?

8           A.        That's considered, you know, more  
9       in the average range.

10          Q.        And then what about a 2?

11          A.        So that's considered acceptable  
12       but -- acceptable, but could need some  
13       attention. And god forbid, maybe even coaching  
14       from someone who is your boss.

15          Q.        And then what about a 1?

16          A.        That's unacceptable.

17          Q.        Okay. Is Defendant's Exhibit 10 a  
18       true and accurate copy of your April 10, 2020,  
19       annual review letter?

20          A.        So officially for what they have  
21       from a record standpoint, yes, but I would say,  
22       no, from a standpoint of reality.

23                - - - - -

24                (Thereupon, Deposition Exhibit 11,  
25                04/09/2021 Memo To Mark Sullivan

Page 120

1                   From Robert Lount, Bates Numbers  
2                   OSU\_000054-000056, was marked for  
3                   purposes of identification.)  
4                   - - - - -

5                 Q.         Okay. I'm going to hand you what's  
6                 been marked as Defendant's Exhibit 11. And let  
7                 me know when you finished reviewing.

8                 A.         Okay. Yes.

9                 Q.         Do you recognize Defendant's  
10                 Exhibit 11?

11                 A.         Sure.

12                 Q.         And what is it?

13                 A.         So it's a faculty evaluation of me  
14                 in my class -- classes.

15                 Q.         And this annual review letter is  
16                 dated April 9, 2021?

17                 A.         Yes.

18                 Q.         And this is from Robert Lount?

19                 A.         Yes.

20                 Q.         Okay. And going to the second page  
21                 of the exhibit under, "Evaluation," it lists  
22                 MHR3100, 3200, MHR7236, Crucial Conversations,  
23                 BA3632, projects for business and industry, and  
24                 then BA3630, consulting emerging. Is that  
25                 correct?

Page 121

1           A.       Yes, yes.

2           Q.       Then starting with the sentence,  
3 "Moreover," it states -- I'm sorry. The next  
4 sentence, "Although." "Although there have  
5 been several instances of very high ratings,  
6 i.e. 4.9, there have also been some ratings  
7 that are quite low, i.e., 2.3, 2.71, 2.83. For  
8 instance, for GAP in 2018, you received an  
9 overall SEI of 2.83 and for GAP in 2019, you  
10 received an overall SEI of 2.71. Teaching  
11 evaluations in the 2s are concerning and  
12 atypical for a senior lecturer."

13           This was given to you on April 9 of 2021?

14           A.       Right.

15           Q.       And did you have any concerns with  
16 the evaluation as --

17           A.       I did. And in part this was during  
18 Covid and it was -- this is an unusual -- so  
19 the GAP program was very unusual, that there  
20 were peer faculty that were all going to be  
21 getting the same grade. And we were -- I was  
22 really the GAP director or coordinator where  
23 these business students were going to be  
24 interning in other countries for consulting.

25           And because it was Covid, it was really

Page 122

1 pretty flawed. We were -- it was very hard to  
2 run a program not knowing if we could go to  
3 another country or not. And we were all going  
4 to get the same grade. And there was no  
5 support by my boss on, how do we manage this.  
6 He had no interest in having any involvement  
7 whatsoever.

8           And I said, "This is -- this is a program  
9 that's been run into the ground in Covid. If  
10 we're depending on the goodwill of these  
11 privately held companies in these different  
12 countries" -- like we're trying to get them to  
13 France and to Spain and these other places.  
14 So, you know, it was frustrating. And you can  
15 see why the grades were lower. I felt it was  
16 beyond our control and that there should have  
17 been some alternative grading --

18           Q.       Okay.

19           A.       -- especially with it being -- with  
20 it being in a Covid environment and we're  
21 trying to run consulting programs in countries  
22 that are infested with Covid, as we were. And  
23 we're getting graded on their satisfaction  
24 levels. So these are students that are pissed  
25 off and upset that they can't go to Paris or

Page 123

1 Rome and so they're going to take it out on us.

2 Q. I just kind of want to point to the  
3 GAP in 2018. 2018 would have been before 2020,  
4 when Covid --

5 A. Yeah.

6 Q. -- came to the United States,  
7 correct?

8 A. This is a program that had only --

9 MR. PETROV: There's no question.

10 THE WITNESS: Okay.

11 MR. PETROV: There was not a  
12 question. Yeah.

13 MR. STOUFFER: Thank you.

14 THE WITNESS: Thank you. Sorry.

15 BY MR. STOUFFER:

16 Q. And then GAP in 2019, that's also  
17 prior to March 2020, when Covid began in the  
18 United States.

19 A. Yeah.

20 Q. Did you talk to Robert Lount about  
21 this section of your evaluation letter at all?

22 A. No. I couldn't reach him.

23 Q. Did you talk to anyone else at the  
24 MHR department?

25 A. That would not be -- I mean, no one

Page 124

1       went to HR for things around faculty --

2           Q.       No, not HR. I'm sorry. The MHR,  
3 so the department, did you talk to any other  
4 faculty members?

5           A.       So that -- no, because the only one  
6 that would be appropriate to have been talking  
7 to the department chair of MHR, which was Bob  
8 Lount --

9           Q.       Um-hum.

10          A.       -- and this was a program I was  
11 asked to take on outside of -- this was on top  
12 of everything else that was a problem child, as  
13 described to me by Ben Tepper. He asked, as a  
14 special favor, can you take this. This was run  
15 into -- run into the ground. There were  
16 only 20 students. I had bumped it up to 80  
17 students getting them by recruiting -- doing a  
18 lot of work, but it was a really complex,  
19 difficult program. This wasn't a standard,  
20 kind of knowledge based program. It was skill  
21 based and it was global and you had to work  
22 through a lot of different people. And Bob  
23 Lount wouldn't have any -- as my boss, he  
24 wouldn't have any knowledge of what this really  
25 involved and nor any interest.

Page 125

1           Q.        Okay. Just a few more questions  
2 then we'll go off the record to discuss  
3 potentially a lunch break.

4           So regarding Bob Lount and these scores  
5 in the 2s, you said you didn't just talk with  
6 him about it, but did you attempt to talk to  
7 him about it?

8           A.        Oh, yeah.

9           Q.        Okay. So did you send him -- how  
10 did you attempt to contact him?

11          A.        So a number of times I would go  
12 down to his office and his door would be  
13 closed, so -- and I would knock on the door.  
14 And someone would say inside, "In a meeting."  
15 Or his assistant would say, "Well, I'll let him  
16 know that you're interested in meeting with  
17 him." And that was -- you know, because I  
18 wanted to have more of an in-person discussion  
19 and I would never get one from him.

20          Q.        Okay. And then did you take  
21 advantage of your right to write a personal  
22 response to Exhibit 11?

23          A.        I didn't find that to be  
24 encouraging at all.

25          Q.        Is that, no?

Page 126

1           A.       Yes, no, no. I only wanted to do  
2 things that would work, that would make a  
3 difference and that would help my students, and  
4 that would not.

5           Q.       Writing a letter as --

6           A.       So where does that go?

7           MR. PETROV:     Mark --

8           A.       Yeah, no.

9           MR. PETROV:     -- he asked a  
10 question. You answered his question --

11           THE WITNESS:    Yeah.

12           MR. PETROV:     -- so you're good  
13 right now --

14           THE WITNESS:    Yup.

15           MR. PETROV:     -- unless David has  
16 a next question.

17           MR. STOUFFER:   I guess we'll go off  
18 the record.

19           MR. PETROV:     Okay.

20           VIDEOGRAPHER:   Off the record. The  
21 time is now 1:10.

22           (Lunch Recess Taken.)

23           VIDEOGRAPHER:   We're back on the  
24 record. The time is now 2:12.

25          BY MR. STOUFFER:

Page 127

1           Q.       All right.  Mark, during your time  
2 as senior lecturer, what were the sizes of your  
3 courses?

4           A.       For my undergrad courses,  
5 foundations of management, would be up to 300  
6 or so students.  I had really the largest  
7 classes, for the most part.  For my graduate  
8 level, they were initially smaller.  Like for  
9 the early years, they were more like 20 or so.  
10 They were capped at that.  And then by the  
11 later years, they're more like double that.  
12 For Crucial Conversations and for the cap  
13 consulting went from 20 to 80.

14          Q.       Okay.  How would you -- was there  
15 any -- did you get any assistance teaching your  
16 larger classes?

17          A.       So I had a TA, a teacher assistant,  
18 for my larger classes of 300.

19          Q.       Is that something you have as of --  
20 right when you teach a class that size or is  
21 that something that you --

22          A.       It was --

23          Q.       Sorry.

24          A.       -- yes.

25          Q.       Okay.  And were these like graduate

Page 128

1 students or could --

2 A. Yes --

3 Q. -- could they be undergraduates?

4 A. -- they were graduate students --

5 Q. And --

6 A. -- Bob did try to take away a TA  
7 for my -- in the last year or so; and I, you  
8 know, made the case that that's really  
9 unrealistic.

10 Q. How many TA's would you be assigned  
11 for a single 300 person course?

12 A. So one TA --

13 Q. One TA.

14 A. -- it was a lot of work but -- it  
15 was a lot of work for me and a certain amount  
16 of work for them.

17 Q. And how did the hiring/assignment  
18 process work with TA's?

19 A. So the school, under the guidance  
20 of Bob Lount, would approve both the candidates  
21 for the TA positions and also the professors  
22 that would be allotted a TA. And then the  
23 professor would interview the TA's -- TA  
24 candidates. And so I would make a hiring  
25 decision on the TA's.

Page 129

1           Q.       So you made the hiring decision,  
2 not the department?

3           A.       Yes.

4           Q.       So Bob Lount would select who would  
5 serve as a TA or whoever the --

6           A.       He would approve the list --

7           Q.       He would approve a list?

8           A.       -- that would be candidates that  
9 could be interviewed.

10          Q.       And then what -- and then the next  
11 step?

12          A.       And then the next step was the  
13 professor who would potentially be working with  
14 their assigned TA to interview the list --

15          Q.       Okay.

16          A.       -- and make a decision.

17          Q.       You would interview multiple TA's?

18          A.       So, multiple candidates. So say if  
19 there was a list of ten TA candidates for a TA  
20 position, Bob would say, "Okay. These ten out  
21 of X number would be in the pool, interview  
22 candidate pool" --

23          Q.       All right.

24          A.       -- and then I would interview --  
25 and then I would look at their backgrounds and

Page 130

1 pick -- say out of ten, I might pick three or  
2 four and then interview them and make a  
3 decision.

4 Q. How many times were you assigned a  
5 TA or --

6 A. Every semester.

7 Q. Every semester?

8 A. Yeah.

9 Q. Okay. Let's see, do you remember  
10 being assigned or interviewing a TA by the name  
11 of Noni Murithi? And that's M-u-r-i-t-h-i.

12 A. I think so.

13 Q. What do you remember about --

14 A. If she's the right one. So we're  
15 talking about -- I've interviewed hundreds  
16 of -- or a lot of candidates. There was one  
17 extraordinary circumstance where a candidate  
18 was -- I think it was during Covid and we  
19 couldn't interview them there, so I -- and I  
20 think we were in lockdown. So I had the  
21 candidate come to my backyard --

22 Q. Okay.

23 A. -- and my wife was with me and I  
24 had at least one of my kids. And I interviewed  
25 her in our backyard. And she was highly

Page 131

1 anxious and it appeared she may have been under  
2 the influence of something. I don't know what.

3 MR. PETROV: Mark, all this is  
4 fine, but I don't know if it's where David  
5 wants to go --

6 THE WITNESS: Yeah.

7 MR. PETROV: -- so let him ask his  
8 questions and then answer those.

9 BY MR. STOUFFER:

10 Q. Okay. So you did have an interview  
11 with, I'm going to call her, Noni?

12 A. I think so.

13 Q. And that was in your backyard?

14 A. Yes.

15 Q. And then she engaged in some sort  
16 of abnormal behavior?

17 A. Yes.

18 Q. And then what happened?

19 A. I called 911, because she was  
20 making unusual noises underneath our picnic  
21 table. She was lying on the ground and, you  
22 know, it was very inappropriate interview  
23 behavior. And so -- but for her benefit, I  
24 called the police and had her be picked up. I  
25 think they wanted her to go to some kind of a

Page 132

1 lockdown place. And I said, "Please send her  
2 to the hospital, not to -- you know, to be  
3 checked out for health."

4 Q. And was all that you remember of  
5 what happened?

6 A. Yes. Oh, no, no. Her -- I think  
7 her mother called me --

8 Q. Okay.

9 A. -- and wanted me to seriously  
10 consider her, and I explained what had  
11 happened. I said, "It's hard for me to  
12 consider that given the circumstances."

13 Q. Yeah, that makes sense. What  
14 happened next? Did you alert anyone at the  
15 college of it?

16 A. Oh, yeah.

17 Q. Who did you talk to?

18 A. Bob Lount and also there was  
19 someone from HR.

20 Q. Okay. Was it either Jennifer  
21 McLendon or --

22 A. Yeah --

23 Q. -- William Wattercutter?

24 A. -- yeah, I think -- well, I'm not  
25 sure if it was Jennifer. She may have been

Page 133

1 involved. I think there were multiple people.  
2 It was a pretty extraordinary circumstance. So  
3 I was able to actually talk to Bob, I think by  
4 phone --

5 Q. Okay.

6 A. -- and he agreed that I should move  
7 on to someone else.

8 Q. Okay. And did he assign you or did  
9 you go and hire a new TA?

10 A. So he actually assigned me someone  
11 else --

12 Q. Okay.

13 A. -- which was a little unusual.  
14 Usually I would pick the person. In this case,  
15 we're coming up on the class was going to start  
16 and we needed someone right away so he assigned  
17 me someone.

18 Q. So you were in communication with  
19 Bob Lount?

20 A. For that one occasion, yes.

21 - - - - -

22 (Thereupon, Deposition Exhibit 12,  
23 08/24/2020 Email To Robert Lount  
24 From Mark Sullivan With Attachment,  
25 Bates Numbers OSU\_002742-002743, was

Page 134

1                   marked for purposes of  
2                   identification.)  
3                   - - - - -

4                 Q.         Okay. I'll show you what's been  
5                   marked as Defendant's Exhibit 12. Okay. Just  
6                   let me know when you're done reading the email.

7                 A.         Okay.

8                 Q.         So just to confirm, on your email,  
9                   OSU, is that sullivan.956@osu.edu?

10                A.         Yes.

11                Q.         Okay. And then that's Robert  
12                   Lount's email?

13                A.         Yes.

14                Q.         Okay. It looks like you recounted  
15                   here to Lount what happened regarding Noni,  
16                   correct?

17                A.         Um-hum.

18                Q.         Does this refresh your recollection  
19                   with any of the details of what transpired?

20                A.         Yes.

21                Q.         And so she showed up to your home  
22                   for the interview and the Uber driver was  
23                   calling her a gender essentially, calling her  
24                   gender slurs, correct?

25                A.         That's what I was told.

Page 135

1 Q. You didn't witness it?

2 A. No.

3 Q. Who told you that?

4 A. She did.

5 Q. Okay. And then, let me see. And  
6 then she was talking to herself, highly  
7 distracted, rolling of the eyes. Does that  
8 sound accurate?

9 A. Yes.

10 Q. Okay. Then did you ever follow up  
11 with Robert, after this email, on her status?

12 A. Oh, yes, yeah.

13 Q. And what was his response?

14 A. Well, he felt assured that it was  
15 being handled correctly, so. You know, I had  
16 recapped what had happened. I called 911. She  
17 was taken in. And then I was -- I recapped  
18 with him, I think by phone a couple times.  
19 Like one time here, we are in interim status.  
20 And then, once again, when I reminded him that  
21 I need someone for the position within a  
22 certain period of time. He offered so and so.  
23 I got that person. I interviewed. And then I  
24 think I confirmed with him that I was going  
25 with that new candidate.

Page 136

1           Q.        Okay.  And then do you know if Noni  
2 ever came back to Fisher?

3           A.        I have no idea.

4           Q.        Okay.  I'm going to change  
5 subjects.  As part of your job as senior  
6 lecturer, were you responsible for selecting  
7 the literature that were assigned to your  
8 courses for the students?

9           A.        Yes, yeah.

10          Q.        How would you go about selecting  
11 which textbooks or literature that the students  
12 were assigned?

13          A.        So I always looked at what the  
14 learning objectives were for the course and for  
15 the student from a knowledge and skill  
16 perspective.

17          Q.        Okay.  And then would you -- would  
18 you look at a list of potential textbooks and  
19 decide which one to use or --

20          A.        Yeah.  I mean, that's -- yes.

21          Q.        Okay.  And what if a professor or  
22 senior lecturer wants to assign their own book  
23 to a class, what's the procedure for that?

24          A.        Usually, given that's the case with  
25 a whole number of professors at Fisher; that

Page 137

they write a book in which they want to use that. I, too, had written a book and wanted to use that as well as other complementary materials. I wrote the book in part to help my students learn things that they weren't getting from anywhere else. So for Crucial Conversations, they used my leadership book called, "Fly When Trouble Visits." And they also used the licensed material that was from a company that provided that.

11                   Q.        Okay.  Was there a procedure prior  
12 to 2021, for getting a book that you had  
13 published assigned to your own courses  
14 approved?

15 A. NO.

16 Q. So prior to 2021, there was no  
17 procedure?

18 A. Right.

20 (Thereupon, Deposition Exhibit 13,  
21 "Thrive: When Trouble Visits!"  
22 Xeroxed Front and Back Cover, Bates  
23 Number OSU\_002701, was marked for  
24 purposes of identification.)

Page 138

1           Q.        Okay.  And I'm going to hand you  
2 Defendant's Exhibit 13.  Is this the cover of  
3 your book, "Thrive"?

4           A.        Yes.

5           Q.        And when did you publish that?

6           A.        This is the popular press edition,  
7 the second of two editions, which was -- the  
8 publishing date was June of last year.

9           Q.        Okay.  And you were kind of going  
10 into it, but what does the book focus on?

11          A.        So it focuses on personal  
12 leadership resilience when -- three conditions:  
13 When stakes are high, demand is beyond capacity  
14 and the future is uncertain.  So it provided  
15 tips, tools, knowledge, concepts on how to  
16 function, what to say, what to think and do  
17 during these difficult moments.

18          Q.        Do you see the text that's to the  
19 right of your photograph there?

20          A.        Yeah.

21          Q.        One thing that stood out to me is,  
22 as far as like it lists McKinsey & Co.

23          A.        Yeah.

24          Q.        Did you at some point work for  
25 McKinsey?

Page 139

1           A.       I was a -- what they referred to as  
2 an alliance partner for McKinsey. So when I  
3 was a managing director for Apex, McKinsey  
4 reached out to me and asked if I could create  
5 an association with them given the expertise I  
6 had in the middle market space for OD,  
7 organizational development.

8           Q.       Okay. And when did that occur?

9           A.       That was around 2013 or '14,  
10 somewhere around there.

11          Q.       Okay. So you contracted with them  
12 but didn't necessarily work for them directly?

13          A.       So I contracted with them, yeah --

14          Q.       Okay.

15          A.       -- but they -- they -- they  
16 referred to me as, an alliance partner.

17          Q.       Okay. Let's turn to Crucial  
18 Conversations. What is, Crucial Conversations?

19          A.       It's a course that helps  
20 individuals to have the skills to deal with  
21 conflict resolution or with challenges and  
22 tension in difficult moments.

23          Q.       Okay. And I apologize if I  
24 mispronounce this word. I've been trying to  
25 pronounce it correctly. So what kind of

Page 140

1 pedagogy would you use to teach those topics?

2 A. Sure. And I appreciate your trying  
3 to reach into this somewhat obtuse world of  
4 professor language. So that is really about  
5 bottom line ways of connecting with people and  
6 with different backgrounds. And so I found the  
7 most powerful, effective way to increase  
8 learning, insights, knowledge and skills was  
9 through role plays and stories and  
10 simulation --

11 Q. Okay.

12 A. -- so that's -- what they sometimes  
13 refer to as, "Pedagogy," was also a more  
14 layman's term is about methodology or ways of  
15 connecting --

16 Q. Okay.

17 A. -- from a learning or cognitive  
18 perspective.

19 Q. And I think I generally know what,  
20 role play is, but could you just kind of  
21 describe how you use role playing --

22 A. Sure.

23 Q. -- in your course?

24 A. So creating real-life scenarios  
25 that test the competency level from both the

Page 141

1 knowledge and skill perspective of some  
2 potential learner --

3 Q. Okay. Sorry.

4 A. -- and I would just add one more  
5 thing. So there are two types of courses. One  
6 was a knowledge course and one is a skill  
7 course. This was really -- Crucial  
8 Conversation is more of a skill-based course.  
9 So the best way to teach or to create a  
10 teaching, learning environment is through  
11 heavy-duty tell/show/do method of role play,  
12 simulation and storytelling.

13 Q. Okay. And what other methods would  
14 you use to teach your students?

15 A. Well, there's the Socratic method  
16 which --

17 MR. PETROV: May I just ask, do  
18 you mean within -- are we just talking about in  
19 Crucial Conversations?

20 MR. STOUFFER: In Crucial  
21 Conversations. I apologize.

22 MR. PETROV: Thank you for the  
23 clarification.

24 THE WITNESS: Sure.

25 BY MR. STOUFFER:

Page 142

1           A.       So I also -- aside from an  
2 experiential approach, which is the role play's  
3 and simulations, there was more Socratic  
4 method, which you would create scenarios for  
5 stimulation purposes. Also, raise provocative  
6 dimensions or angles around that learning  
7 situation --

8           Q.       Um-hum.

9           A.       -- and getting group feedback. And  
10 then there was actual old-fashioned knowledge  
11 based teaching where I'd put out concepts. And  
12 these concepts would be theoretical frameworks  
13 on what to do when you're in certain  
14 situations. And then I would give a lot of  
15 examples. So unlike a pure knowledge,  
16 theory-based class, it was a real -- it was  
17 called, blended learning in this methodology.  
18 So there was experiential and there was, you  
19 know, some of these other kinds of methods.

20           MR. STOUFFER: And did you need a  
21 break?

22           MR. PETROV:     No.

23           MR. STOUFFER: Okay.

24 BY MR. STOUFFER:

25           Q.       And then -- okay. And was Crucial

Page 143

1 Conversations an elective or core course?

2 A. It was elective. However, many  
3 students wanted it to become required and they  
4 petitioned to the school that it be -- that it  
5 would be required. A lot of people felt that  
6 every student should get it. And also  
7 professors that were uncharacteristically  
8 coming to my classes and sitting in the back of  
9 the room watching and listening to it as well.

10 Q. Okay. Do you develop or write  
11 syllabi for all your classes?

12 A. Yes.

13 Q. Including Crucial Conversations?

14 A. Yes.

15 - - - - -  
16 (Thereupon, Deposition Exhibit 14,  
17 BUSMHR #7236 -- Crucial  
18 Conversations Syllabus, Etc., was  
19 marked for purposes of  
20 identification.)

21 - - - - -  
22 Q. I'm going to show you what's been  
23 marked as Defendant's Exhibit 14.

24 A. Sure.

25 Q. Just let me know when you've

Page 144

1 finished reviewing.

2 A. Okay.

3 Q. At the top it says, "Spring  
4 Course 7236." Would this be the same syllabi  
5 that was used in, say, the fall of 2021, or  
6 would there be substantial changes?

7 A. Not substantial. It would be very  
8 similar. Just since this was the first post  
9 Covid, the first in-person class, there were a  
10 few tweaks regarding Co -- so it says like on  
11 the first page, "Covid 19, sensitive, in-person  
12 class required schedule." So there'd be little  
13 tweaks, you know, whether it was in Covid time,  
14 home based or in person, but that was -- the  
15 content itself stayed the same.

16 Q. Okay. In terms of conflicts or  
17 stressful situations --

18 A. Sure.

19 Q. -- how would you help your students  
20 role play those situations?

21 A. Yeah. So I would often start with  
22 an example, sometimes a video of a highly  
23 charged emotional social intense thing just to  
24 give an example of something that seems scary.  
25 And then I came back to teach the concept and

Page 145

1       then slowly walk them through different stages  
2       of engagement. And generally speaking, you  
3       know, as a trained psychologist, you have to be  
4       very much aware of readiness, how much someone  
5       is ready to take a certain degree of intensity.

6           And so while the first video snapshot was  
7       kind of shock value -- it's like holy shit.  
8       You know, like my god, what do you do -- to  
9       create a lot of curiosity and interest with a  
10      lot of young folks in the room that would be  
11      riveting. And then would slowly, carefully  
12      walk them, get them prepared for more  
13      intensity. So that was -- you know, what was a  
14      little different with this class, it's the  
15      first class out of Covid. And they had spent a  
16      lot of time in their homes or not together with  
17      people. And I had, when Bob Lount called me in  
18      September of 20 --

19           MR. PETROV:     Hold on. I'm sure  
20      David will get to all of this eventually. I  
21      just want to make sure that we progress through  
22      it in the order that he wants to --

23           THE WITNESS:    Okay.

24           MR. PETROV:    -- and I think he  
25      was still asking questions about methodology.

Page 146

1                   THE WITNESS:     Yeah.

2 BY MR. STOUFFER:

3                   Q.     So you mentioned videos as one  
4 method of kind of getting students engrossed in  
5 an tense or stressful situation --

6                   A.     Sure.

7                   Q.     -- correct?

8                   A.     Sure.

9                   Q.     Other than videos, what else would  
10 you use?

11                  A.     Stories.

12                  Q.     Stories.

13                  A.     I would also use the Socratic  
14 method. I would use a case example. And I  
15 often would start with personal versus  
16 business --

17                  Q.     Okay.

18                  A.     -- because people remember personal  
19 scenarios a lot closer. So if there's a  
20 breakup with a boyfriend, girlfriend or  
21 whatever. And then move to business where  
22 something -- if they had a bad day with the  
23 boss or whatever, so. But would use methods  
24 that were very personal and experiential. And  
25 also trying to create a fair bit of emotional

Page 147

1 safety, because this was scary stuff. So I  
2 would try to be very affirming. So I would  
3 acknowledge -- I would sometimes even bring up,  
4 before the seven weeks, some executive presence  
5 things about how people were nonverbally  
6 reacting. And I found certain students were  
7 less confident.

8 And so the methods would be around trying  
9 to build their confidence and competence up.  
10 So my talking about how they looked or how they  
11 act was very intentional to help build  
12 competence around particularly -- I would say,  
13 particularly around female students who were in  
14 the company of men who sometimes felt  
15 intimidated by some of -- so I would  
16 intentionally try to focus on building their  
17 confidence and competence. There were some men  
18 as well, but to me it was just helping students  
19 be more confident. So a teaching method that  
20 was very much like what we would call Rogerian.

21 Q. Okay. Can you give me an  
22 example -- outside of the Whitey Bulger  
23 incident that you have in your complaint, can  
24 you give me another example where you've used  
25 very either aggressive or antagonizing language

Page 148

1       in a video or something like that?

2           A.       Outside of the Whitey Bulger?

3           Q.       Yeah. I'm assuming that's not the  
4 only --

5           A.       Right, right, right.

6           Q.       So can you give me an example of  
7 something else that you've used in class?

8           A.       So a lot of times, I would  
9 literally work off them. I would say, "I want  
10 you to take 10 minutes to think of a tough  
11 time, tough day that you had, work or home."  
12 And then they would partner with someone and  
13 they'd go through that. And then I would say,  
14 "Now I'd like to ask for a volunteer, a  
15 volunteer to come down to the well and we'll  
16 role play that tough scenario. I'll be you and  
17 you be them" --

18           Q.       Okay.

19           A.       -- so if it's a mean boss that's  
20 yelling at you for some reason, you be the mean  
21 boss and I'll be you. And we'll use some of  
22 the tools that are on the board to see how that  
23 works out --

24           Q.       Okay.

25           A.       -- and so -- and I found that by

Page 149

1 using their personal cases that became very  
2 effective in them considering adopting that  
3 practice. It also gave me some signaling as to  
4 whether or not I was calibrating -- I had to go  
5 at a certain pace. It's a mixed audience.  
6 Some people were more seasoned and mature and  
7 could take more intensity. Others couldn't.  
8 So you had to kind of be careful. And I would  
9 have to test readiness levels as well as  
10 competency and understanding levels all at the  
11 same time with a very mixed audience.

12 Q. Okay. So spring semester 2021,  
13 this is the 49th time you've taught --

14 A. Somewhere around there.

15 Q. -- Crucial Conversations?

16 Has the syllabus for your Crucial  
17 Conversations course, in terms of the actual  
18 meat and potatoes of the course, has that  
19 changed drastically over the 40-some times?

20 A. No.

21 Q. Okay. So on September 28, 2021,  
22 you had a class. Can you walk me through what  
23 happened during that day and the Whitey Bulger  
24 scenario?

25 A. So I covered regular class material

Page 150

1       in my regular way, which included content about  
2       trying to detoxify or neutralize intense,  
3       disrespectful language. So I remember doing  
4       some Socratic work in helping them to see, so  
5       what has worked for you in the past when  
6       there's disrespectful, hate-based speech that's  
7       involuntary. So went kind of from there to  
8       sharing some -- sharing the Whitey Bulger story  
9       but asking them, As you hear this story, I want  
10      you to not get sucked into the emotional  
11      intensity of it but be looking more  
12      dispassionately at what tools can you use, what  
13      can you pick and choose. If you were the  
14      police interrogator with Whitey Bulger, how  
15      would you react to them --

16           Q.     Okay.

17           A.     -- so that was -- yeah.

18           Q.     So the students were playing the  
19      role of the police officer?

20           A.     So I asked them by themselves to  
21      quietly listen to the story, not be hooked into  
22      the disrespectful hate speech but rather, how  
23      would you personally, yourself -- and not  
24      talking with anyone else, but how would you  
25      actually engage with someone that has horrific

Page 151

1 hate speech. And then I'd like you to talk  
2 with your learning buddy -- I had them all in  
3 couples -- to kind of vent or brainstorm, what  
4 are some things you would say or do when you  
5 have such hate speech in your face literally.

6 Q. Okay. And then with this  
7 quote that we're about to get to with Whitey  
8 Bulger, was that a video or did you yourself  
9 say the words?

10 A. I said the words --

11 Q. Okay.

12 A. -- and I felt like -- so part of  
13 what I was going for now was to increase shock  
14 but also to increase some courage and  
15 competence and confidence in a really tough  
16 thing to be able to pick a couple of the tools  
17 that we had just reviewed around, how do you --  
18 how do you detoxify painful, prickly moments  
19 with someone that's in your face.

20 Q. Can you please turn back to  
21 Defendant's Exhibit 8, page ID number 227.

22 MR. PETROV: Do you mind if I do  
23 it, Counselor?

24 MR. STOUFFER: Oh, sure.

25 MR. PETROV: It will probably be

Page 152

1 faster.

2           Here, why don't you give me this and this  
3 is the first half of the document.

4           THE WITNESS:    Okay.

5           MR. PETROV:    That's the whole  
6 exhibit there. (Indicating.)

7           THE WITNESS:    Thank you.

8 BY MR. STOUFFER:

9           Q.       So paragraph 29, it describes, as  
10 you were just discussing, the Whitey Bulger  
11 role play scenario, correct?

12          A.       Yes.

13          Q.       And then can you read paragraph 30?

14          A.       "In this module focused on Whitey  
15 Bulger, Plaintiff quoted Bulger as saying, 'I  
16 don't want to be placed in a prison cell with a  
17 bunch of niggers. You make sure I'm in a place  
18 with my kind and I'll talk about who was behind  
19 that job of killing..."

20          Q.       And so that's the line you read to  
21 the class?

22          A.       But I said it in a more emphatic  
23 way.

24          Q.       Okay. So you were more emphatic --

25          A.       Absolutely.

Page 153

1           Q. -- because you were engaging in  
2 role playing?

3           A. I was trying to create shock,  
4 intentionally create this kind of in your face  
5 intensity and test their appropriate choice of  
6 different tools to bring down the intensity.

7           Q. What was the immediate reaction of  
8 the students in the class?

9           A. So, I mean, this was now like  
10 the 49th time or whatever it was. So, you  
11 know, I -- and this was a large class. So  
12 there were like 40 or 45 students, because of  
13 the high demand. Everyone wanted to get into  
14 this class. And so I'm in a well looking up to  
15 a large kind of typical circular type class and  
16 I'm playing to the audience, to the crowds.

17           I can't see everybody, but I got the  
18 sense that people were taking it in and they  
19 were very engaged. They were -- you know, in  
20 terms of nonverbals, they were kind of  
21 listening to it. There was some people that I  
22 found were probably a little taken back by it,  
23 which I found to be helpful growth inspired  
24 journey for them to kind of have different  
25 reactions and to over time get better.

Page 154

1 Q. Okay. Now, kind of getting back to  
2 something you said earlier. This was the 40th  
3 something time --

4 A. Yeah.

5 Q. -- that you've taught this course.

6 A. Yeah, right.

7 Q. And the syllabus hasn't changed  
8 very much.

9 A. Right.

10 Q. So have you used that --

11 A. Story --

12 Q. -- Whitey Bulger story and quote 40  
13 some --

14 A. Every time.

15 Q. Every time. And then did you --  
16 did you kind of like give any sort of  
17 disclaimer or warning to the class?

18 A. Oh, yes, yes.

19 Q. And how did you communicate that  
20 warning?

21 A. So I would say, as I did in all the  
22 preceding times, I said, "Now, you're about to  
23 be tested in being able to engage in a very  
24 intense, hateful, disrespectful moment. You  
25 have some choices on the board here in terms of

Page 155

1 how to neutralize or stay focused --

2 Excuse me.

3 Q. Excuse you.

4 A. Thank you.

5 -- and so there can be two different  
6 things going on at the same time inside of you.  
7 One is shock and disdain. You can't believe  
8 what's going on, that they would say such  
9 disrespectful. The other side is to be able to  
10 be like a -- and I said this a couple of times.  
11 When you land a plane, there's a control tower  
12 and a cockpit. You need to be both at the same  
13 time. In the control tower, you're looking at  
14 zone management. How do all the planes get  
15 down.

16 And so here where is the conversation,  
17 where is it going, how do you manage the  
18 trajectory of that conversation. But you're  
19 also in the cockpit where you're experiencing  
20 things up close and you need to manage your  
21 emotions, how you feel and how you think at the  
22 same time as looking macro. So macro/micro.  
23 So we're testing you on this. So don't give  
24 way to just the intensity of this. Stay  
25 focused on the big picture as much as on the

Page 156

1       little picture.

2           Q.     So did you verbally warn the class  
3 before you engaged --

4           A.     Absolutely --

5           Q.     -- in the Whitey Bulger --

6           A.     -- yes.

7           Q.     -- module or lesson?

8           A.     Yeah.

9           Q.     Did you send anything in writing to  
10 the class, prior to the Whitey Bulger material?

11          A.     No, no, no. I didn't feel --  
12 because every class had different things I was  
13 testing them on. This was on more intensive  
14 affective moments and what tools could they use  
15 for intense affect as opposed to  
16 passive-aggressive or -- I mean, there's all  
17 kinds of dysfunctional behavior. This was only  
18 one --

19          Q.     Okay.

20          A.     -- I will say that I was always  
21 trying to calibrate readiness level and so, you  
22 know, that was -- in the apology, I said,  
23 "Crossed the line." What that was about was,  
24 did I move too fast, did I go too fast in being  
25 able to introduce this concept. Were 20 of

Page 157

1 them ready or 30 or were all 40 of them ready  
2 to have this kind of intense moment.

3 Q. Okay. Have you heard of what's  
4 called a, Course highlights document?

5 A. I've heard different variations of  
6 that, yeah.

7 Q. Do you know what it is?

8 A. Is that for Fisher or are you  
9 talking about in the learning industry itself?

10 Q. For Fisher and Crucial  
11 Conversations specifically, did you ever write  
12 or draft a course highlight?

13 A. I believe so.

14 Q. And who receives course highlights?  
15 Is that on a website somewhere or is that --

16 A. A lot of different stakeholders.

17 So that would be for executive MBA students --

18 Q. Okay.

19 A. -- or I think it was even used by  
20 the school for recruiting purposes because it  
21 was a unique class. I used it and the school  
22 adopted my course in what's called the dean's  
23 leadership academy. So they had a -- so I  
24 would have to -- they asked me to pitch the  
25 course or present it to multiple audiences both

Page 158

1 internal to the school and outside the school.  
2 And a course highlight was always a way to be  
3 able to put 20 pounds of marbles in a 5-pound  
4 bag.

5 - - - - -

6 (Thereupon, Deposition Exhibit 15,  
7 BUSMHR #7236 -- Crucial  
8 Conversations Course Highlights, was  
9 marked for purposes of  
10 identification.)

11 - - - - -

12 Q. I'm going to hand you what's been  
13 marked as Defendant's Exhibit 15.

14 A. Okay.

15 Q. Let me know when you're done  
16 reviewing the document.

17 A. Okay.

18 Okay.

19 Q. What is this document, Exhibit 15?

20 A. It's a preview of what the 40 hours  
21 of 15-week Crucial Conversations course would  
22 be.

23 Q. Okay. And did you create this  
24 document?

25 A. Yes.

Page 159

1           Q.       And where would it be made  
2 available?

3           A.       Multiple places. I think sometimes  
4 on the Fisher website occasionally as well as  
5 handouts as well as digital, you know, and  
6 different audiences. So if I was going to a  
7 dean leadership academy introductory thing,  
8 they would have me come in and take 15 minutes  
9 and I might have this as a handout or it could  
10 be -- you know, different settings like that.

11          Q.       Okay. And then on the -- well, it  
12 starts on the bottom of the first page and then  
13 goes into the top of the second page. The  
14 title for this subsection is, "Example of  
15 Provocative Language Used." Do you see that?

16          A.       Yes.

17          Q.       And then going onto the second  
18 page, it has the Whitey Bulger quote you just  
19 said involving --

20          A.       Right.

21          Q.       -- the use of the, "N," word.

22          Has this document been in circulation,  
23 since you started doing Crucial Conversations,  
24 or has it just been -- was it more recent?

25          A.       No. Since it started --

Page 160

1 Q. Okay.

2 A. -- this is standard stuff.

3 Q. Is this something that has to get  
4 approved -- is this something that has to get  
5 approved before --

6 A. All content and -- all teaching  
7 content and methods have to be approved.

8 Q. I really want to finish this  
9 question.

10 A. I'm sorry.

11 Q. So for something like course  
12 highlights or your syllabi, would you have to  
13 submit that somewhere?

14 A. Yes.

15 Q. To where or to whom?

16 A. To -- not only to the department  
17 chair but I think to the accredid -- there was  
18 an office of accreditation.

19 Q. Is that at OSU?

20 A. At OSU in Fisher. Fisher had  
21 someone who worked full-time to make sure  
22 everything was accredited. So this had to be  
23 approved multiple ways. And I also had to  
24 submit this to -- since this was -- a portion  
25 of it was licensed material, I also had to send

Page 161

1       it to the supplier to make sure that they would  
2 approve this as well.

3           Q.     Supplier for what?

4           A.     For Crucial Conversations. So the  
5 course was in three different sections. So one  
6 section was about crucial tools. The second  
7 was around executive presence, which was a  
8 hundred percent my content. And third was  
9 leadership resilience, which was a hundred  
10 percent my content. And the first of three  
11 around the crucial tools, which was the first 7  
12 of 15 weeks, that was using someone else's  
13 material, but I would include my way of  
14 teaching that. So I would -- and they approved  
15 that I could use my own stories and, you  
16 know -- and so on. But I had to use all their  
17 videos.

18           Q.     Regarding the Whitey Bulger  
19 material --

20           A.     Yeah.

21           Q.     -- is that something that came from  
22 this source, this creator of the Crucial  
23 Conversations --

24           A.     No.

25           Q.     -- or was that something you

Page 162

1       created?

2           A.       I created --

3           Q.       Okay.

4           A.       -- working with the Massachusetts  
5 State Police. I personally knew the state  
6 police major who was responsible for  
7 interrogating Whitey Bulger. So it was a true  
8 life experience of what happened to him when he  
9 was interrogating Whitey Bulger.

10          Q.       Okay. And the -- strike that.

11          Okay. So you have this class. The class ends.  
12 Did any of your students discuss with you after  
13 the class ended what happened?

14          A.       So I think it was a couple of days  
15 later -- so I would teach the class a couple of  
16 times a week. And so I think the next class, I  
17 had a student that came to me and said that  
18 there was a troubled, disgruntled student that  
19 did not like the Whitey Bulger story and was  
20 really concerned that it was inappropriate  
21 behavior.

22          Q.       And then who was that student?

23          A.       I don't know. It was a tall  
24 gentleman. He was talking about a peer student  
25 that was having trouble with it and was -- and

Page 163

1 he had warned me that this peer student of his  
2 was recruiting -- was out to get you and was  
3 recruiting other students in the class and he  
4 felt very uncomfortable about that.

5 Q. Recruiting other students to do  
6 what?

7 A. To join her in trying to place  
8 claims about me being either a racist or being  
9 inappropriately using the forum to do things  
10 that were not called for, that was  
11 inappropriate.

12 Q. Okay. And what did you do next,  
13 after you received this verbal complaint?

14 A. I was crushed because I pour my  
15 heart and soul into helping these students.  
16 And in part I was shocked because the very  
17 purpose of this course is to have the courage  
18 to bring this kind of issue directly to the  
19 person where it matters, and the person wasn't.  
20 You know, so I asked, "Who was it?"

21 And he said, "You know, I'm sorry. I  
22 don't think I can say that." I said, "Fine  
23 but" -- so I said, Okay. Well, I'm going to  
24 send a note out to the class right away. And  
25 I'm going to also in the next class before we

Page 164

1 start the course content material, I'm going to  
2 have an open discussion to solicit any inputs,  
3 thoughts or reactions, so on. And that's where  
4 I proceeded with the apology document.

5 Q. And how do you communicate to your  
6 classes, to the students like via an electronic  
7 communication?

8 A. Yeah, so there was a mechanism set  
9 up where as a professor you could -- you could  
10 basically have a customized distribution  
11 channel that would just go to your students.

12 Q. Do you remember what that program  
13 or communication tool is called?

14 A. I think it was within Canvas.  
15 - - - - -  
16 (Thereupon, Deposition Exhibit 16,  
17 09/28/2021 Email To varnau.6@osu.edu  
18 From AU21 BUSMHR 7236/Mark Sullivan,  
19 Bates Number OSU\_000594, was marked  
20 for purposes of identification.)  
21 - - - - -  
22 Q. Okay. I'm going to show you what's  
23 been marked as Defendant's Exhibit 16.  
24 A. Yup, yeah.  
25 Q. Let me know when you're --

Page 165

1           A.       I'm done.

2           Q.       Okay. Do you recognize Defendant's  
3 Exhibit 16?

4           A.       Yes.

5           Q.       And what is it?

6           A.       So it is a statement trying to  
7 address what I was told was either one person  
8 or a number -- more than one that felt that  
9 there was inappropriate behavior that -- that I  
10 initiated --

11          Q.       Um-hum.

12          A.       -- around this -- around racial,  
13 ethnic slurs. I was quite taken back. And I  
14 was struck with the fact that I had two -- two  
15 responsibilities. One was to try to connect  
16 with them personally. And, two, to teach them  
17 in a more personal way how to apologize.  
18 Because that was part of the teaching material,  
19 was to -- and so there are three parts to that  
20 which included in this was around the context;  
21 and then around actions that you would take to  
22 on your part, in this case, my part; and third,  
23 anything in the end about how you felt. So  
24 this was both a teaching document as well as I  
25 was crushed that -- I mean, I cared about these

Page 166

1 students and spent so many more hours beyond  
2 what was in the classroom helping them. And so  
3 whoever it was, I wanted them to know that.

4 Q. And just to make sure that we have  
5 the timing correctly, so this message is dated  
6 Tuesday, 28th of September 2021, correct? In  
7 the date line.

8 A. Yeah, yeah.

9 Q. And then the first line says, "I  
10 have received some heartfelt, genuine feedback  
11 about me and our class on Monday."

12 So that would mean that the Whitey Bulger  
13 statement occurred on September 27, 2021,  
14 correct?

15 A. Probably.

16 Q. Okay. Did you get any -- strike  
17 that. Have you ever had to apologize  
18 previously for your Whitey Bulger material?

19 A. No, never.

20 Q. And can you kind of explain why you  
21 felt the need to apologize here?

22 A. You know, I did see that this was a  
23 little bit of a different class coming out of  
24 Covid. And there were professors that were  
25 talking about it and later Bob talked about it

Page 167

1 as well; that beware, this is, you know, the  
2 first semester with in person and the students  
3 are acting differently and, you know, so on.  
4 So I felt like perhaps I had crossed the line  
5 in terms of not being -- moving too fast in the  
6 teaching material and maybe scaring some people  
7 more than what they were ready for. I mean, so  
8 much of this was a balance between tough love  
9 and affirmation.

10 I mean, so I really went out of my way  
11 from an executive presence standpoint to really  
12 try to affirm people in using nonverbal and  
13 verbal language, which was part of the teaching  
14 in this course material. And I felt like, you  
15 know, maybe -- you know, no one is perfect --  
16 is there something that could -- you know, did  
17 I move too fast, so that -- so that's -- I'm  
18 always trying to do the best I can and so  
19 that's where I've come from.

20 Q. So you sent this. And I guess  
21 really quick, is Defendant's Exhibit 16 a true  
22 and accurate copy of your email you sent --

23 A. Yes, yeah.

24 Q. -- apologizing?

25 A. Yeah --

Page 168

1 Q. Okay.

2 A. -- yeah.

3 Q. Okay.

4 A. And, by the way, I would just say  
5 for the mask fully, so I -- we were coming out  
6 of Covid but I was -- part of what I was  
7 teaching was the power of nonverbals --

8 Q. Um-hum.

9 A. -- and I couldn't show them  
10 effectively what it looks like for a supportive  
11 face in the embouchure region, the mouth,  
12 without taking my mask off and showing them how  
13 my mouth looked when I was either smiling or  
14 supporting them or whatever. So there were  
15 times when I intentionally took my face mask  
16 off. And I was also spending a lot of time in  
17 the well, the bottom part which is furthest  
18 away from this very large room of students. So  
19 that was one thing.

20 And I felt that, you know, now is not  
21 forever but the number one of three, the  
22 mindful of language and never again make  
23 reference to racist ethnic slurs. So I felt I  
24 would not do that anywhere in this -- like  
25 since there was more than shock probably for

Page 169

1 someone in the room that I wanted to -- wanted  
2 to walk that back. And I'm trying to help  
3 them. This is effective teaching methods  
4 that's worked everywhere all the time, but  
5 there is one student that somehow -- who is not  
6 coming to me, so. So that's where some of that  
7 was coming from.

8 Q. Okay. A few things. First, other  
9 than this Whitey Bulger snippet, did you use  
10 any other racist language in your Crucial  
11 Conversations course?

12 A. No.

13 Q. Okay. So that was the only racial  
14 slur you used?

15 A. Yes.

16 Q. Okay. Did you use any other slurs,  
17 like gender slurs or religious slurs or  
18 anything like that?

19 A. Occasionally might use a comment  
20 like, "Put on your big boy pants" --

21 Q. Okay.

22 A. -- as a matter of fact, I would  
23 talk about stereotyping and the power of words  
24 and how they can be very destructive or  
25 demeaning. And so I would sometimes ask them

Page 170

1 to come up with their own word list of  
2 disrespectful language, and so we would even  
3 have a conversation about that.

4 Q. Okay. And going back to the Covid  
5 masking issue. Did Fisher or OSU issue any  
6 sort of guidance to faculty on wearing masks  
7 around this time?

8 A. Yeah, so it was a little bit gray.  
9 I think there was a request to use masks in the  
10 classroom wherever possible, but that if you  
11 were like in a clinic or teaching lab that  
12 sometimes there were exemptions. So I think  
13 classes over at the medical division or, you  
14 know, if you were teaching like suturing skills  
15 in the mouth, it would be hard to -- and here,  
16 with me teaching nonverbal language, I felt  
17 that called for appropriate time. And people  
18 were very accepting of it and learning. I  
19 mean, my goal is do whatever I can do to help  
20 them learn more.

21 Q. Okay. So after this apology email,  
22 when was the first time you talked with one of  
23 the individual defendants about the Whitey  
24 Bulger incident?

25 A. So that was sometime in late

Page 171

1 September or so with the -- September 22 or so  
2 with Bob Lount.

3 Q. Well, September 22 would have been  
4 before September 27.

5 A. So it was sometime --

6 Q. Sometime soon thereafter?

7 A. Yeah, yeah. I -- yeah.

8 Q. Okay. And did you reach out to Bob  
9 or did Bob reach out to you?

10 A. He reached out to me.

11 Q. And what did he say his purpose was  
12 in reaching out to you?

13 A. To check in on what's -- what's  
14 actually going on in your Crucial Conversation  
15 class.

16 MR. STOUFFER: Okay. All right.

17 Actually, let's take a five-minute break.

18 MR. PETROV: Okay. That's fine.

19 VIDEOGRAPHER: All right. Off the  
20 record. The time is now --

21 MR. PETROV: No, I don't want to  
22 go off the record. Thanks.

23 I need you to step out for a second  
24 because I need to describe something on the  
25 record about a document to counsel and I want

Page 172

1 to do it outside side of your earshot, so  
2 that --

3 VIDEOGRAPHER: Your microphone,  
4 Mr. Sullivan.

5 MR. PETROV: I've lost mine, too.  
6 I'll come and explain it in a second, Mark.

7 THE WITNESS: That's okay.

8 MR. PETROV: I just want to make  
9 sure I'm not accused later of coaching a  
10 witness or anything.

11 (Witness exits.)

12 MR. PETROV: Okay. So I wanted  
13 to make a comment about Exhibit 15, Defendant's  
14 Exhibit 15, which is this document, Crucial  
15 Conversations Course Highlights.

16 MR. STOUFFER: Yes.

17 MR. PETROV: So when you  
18 introduced it, it looked to me like a  
19 privileged document that was prepared for  
20 counsel. And so while you were finishing your  
21 questions, I went back into my email -- and I'm  
22 stating this for the record so that I can tell  
23 you what the situation is and what I intend to  
24 produce to you. And also get an agreement  
25 that, as I try to resolve this issue, that

Page 173

1 there isn't an argument that I'm otherwise  
2 waiving privilege with regards to other  
3 communications with Mark Sullivan. So --

4 MR. STOUFFER: Okay.

5 MR. PETROV: -- I'll say this  
6 document, Exhibit 15, was forwarded to me by  
7 Mr. Sullivan on July 3, 2024. And the Word  
8 document that was forwarded to me was titled,  
9 "Dan Petrov Crucial Conversations" -- hold on a  
10 second. I'm sorry -- "Dan Petrov Crucial  
11 Conversations Highlights Version 1,  
12 07032024.docx."

13 My understanding -- and I haven't had a  
14 chance to ask him yet, but I wanted to do this  
15 before it was also clear to share my  
16 recollection with you before I talk to my  
17 client, it appears to me to be a privileged  
18 document that was not shared with OSU. It was  
19 prepared for me. It does look exactly the  
20 same. My intention is to ask him and to get  
21 you the original forwarded to you and also try  
22 to get you a copy that has the original  
23 metadata intact so that question can be  
24 answered.

25 But everything I'm looking at in my

Page 174

1 emails, it appears that it was a document  
2 created three years -- or two years after his  
3 termination and made for counsel. So I'm  
4 tentatively asserting privilege over it. I  
5 don't need a copy back. There's nothing  
6 controversial about it, but I wanted to make  
7 that clear now and tell you that I'll produce  
8 it. And if there are more questions after I  
9 produce that, I'll make him available for those  
10 questions.

11 MR. STOUFFER: Okay. So this  
12 document then was not prepared during his time  
13 at Fisher then?

14 MR. PETROV: The version I have,  
15 that's my understanding but I can't testify to  
16 that because I don't have the metadata. But I  
17 received a copy of that document that was dated  
18 and labeled, July 3, 2024, with my name in the  
19 file from him --

20 MR. STOUFFER: Okay.

21 MR. PETROV: -- and I'd like to  
22 go back and I'd like to try to ask him  
23 questions about when it was created and if he  
24 has the original so that we can answer it, but  
25 I wanted to talk to you before I go talk to him

Page 175

1 and then come back in the conference room after  
2 a break.

3 MR. STOUFFER: I mean, if there's  
4 something that he -- like this document that he  
5 did prepare during his time at Fisher, we would  
6 want that produced to us, because I got this  
7 from the production.

8 MR. PETROV: From my production?

9 MR. STOUFFER: Yeah, from your  
10 production.

11 MR. PETROV: Yeah, I think it's  
12 inadvertently produced. I don't have anything  
13 else with the same title in my production but I  
14 will ask. And we will -- if there is something  
15 else with an earlier date, I'll give that to  
16 you, too --

17 MR. STOUFFER: Okay.

18 MR. PETROV: -- but based on what  
19 I know now, it appears that that was a document  
20 prepared for counsel and I'm going to assert  
21 work product over it.

22 MR. STOUFFER: I think that's fine  
23 as long as we can figure out if there's  
24 something similar. Because we do think that if  
25 this was -- if there's anything like this that

Page 176

1 he may have [inaudible] employed by us, then we  
2 think that is responsive to our discovery  
3 request.

4 MR. PETROV: I would agree with  
5 you, if it was made during -- all the language  
6 in the document is all past tense, so. That's  
7 why it caught my eye. It was, was, or, would  
8 have.

9 MR. STOUFFER: I understand what  
10 you're saying and that does make sense, that  
11 it's privileged, so --

12 MR. PETROV: Okay.

13 MR. STOUFFER: -- so it is what it  
14 is.

15 MR. PETROV: All right. Well, as  
16 long as we have agreement that the issue at  
17 least has been highlighted and we will resolve  
18 it through further discussion. And I will go  
19 back and make sure that there isn't anything  
20 else responsive that was made during the time.

21 MR. STOUFFER: And if we, you know,  
22 get to briefing, then we'll just abstain from  
23 using that and, you know, just pretend it never  
24 came into our hands.

25 MR. PETROV: All right. Well, we

Page 177

1 should be able to come to an even more clear  
2 understanding of it before that point in time.  
3 So I apologize for the error and the confusion,  
4 but I'll get you the rest of the information  
5 that you need to understand it all. Okay?

6 MR. STOUFFER: Okay.

7 VIDEOGRAPHER: We're off the  
8 record. The time is now 3:19.

9 (Recess taken.)

10 VIDEOGRAPHER: We're back on the  
11 record. The time is now 3:26.

12 - - - - -

13 (Thereupon, Deposition Exhibit 17,  
14 09/29/2021 Email Trail Between Mark  
15 Sullivan, Robert Lount and  
16 Unredacted, Bates Numbers  
17 OSU\_002750-002752, was marked for  
18 purposes of identification.)

19 - - - - -

20 BY MR. STOUFFER:

21 Q. All right. Mark, I'm going to hand  
22 you what I've marked as Defendant's Exhibit 17.  
23 Just let me know when you're done reviewing.

24 A. Okay.

25 Q. All right. Starting at the end of

Page 178

1      Exhibit 17 with the Bates stamp OSU\_002752, you  
2      see the email from Robert Lount?

3            A.       At the very end?

4            Q.       Bottom of the email chain, but,  
5      yeah.

6            A.       Yeah.

7            Q.       So it was sent to you on  
8      September 29, 2021, correct?

9            A.       Yes.

10          Q.       And then Mark is asking you about  
11        your use of a racial slur in class of your  
12        conversation -- or your use of a racial slur in  
13        class, correct?

14          A.       I'm sorry. Could you repeat that?

15          Q.       Yeah, sure. The first paragraph  
16        states that he's emailing you about your use of  
17        a racial slur in class, correct?

18          A.       Yeah, yeah.

19          Q.       And then at the bottom it says,  
20        "Fisher's HR has asked me to talk to you about  
21        the use of racial slurs in your Crucial  
22        Conversations class. Can you talk via phone to  
23        touch base about it today? If not today, when  
24        might you have time tomorrow?" Do you see  
25        that?

Page 179

1           A.       Yeah.

2           Q.       Did you reach out to Lount by phone  
3       the following day or that day?

4           A.       No.   We set up an appointment time  
5       and he called me.

6           Q.       Okay.   So he called you.   Was that  
7       on the 29th or was that the following day?

8           A.       Sometime around then.

9           Q.       What did the two of you discuss?

10          A.       So this was the one time that we  
11       talked before the February 22 call where I was  
12       being released.   And he said, "I was calling to  
13       just check in.   HR forced me to call you."   I  
14       think he used the words, "Forced me to call you  
15       to find out what's going on in your Crucial  
16       Conversations class" --

17          Q.       Okay.

18          A.       -- so then I just restated that,  
19       you know, that I was doing role plays and  
20       simulation around some tools and that there's  
21       always plus and minus reactions around role  
22       play simulation.   And he said -- it was a very  
23       brief conversation, phone conversation.   And he  
24       ended by saying, "Well, that all sounds good to  
25       me.   Just keep going, but please note that I've

Page 180

1      been hearing from a lot of professors that with  
2      this being the first time back with in-person  
3      classes, there's a lot of things going on with  
4      students" --

5            Q.       Yeah.

6            A.       -- "that they're not acting the way  
7      they usually do."

8            Q.       What did you take that to mean?

9            A.       Just to be attentive to different  
10     behaviors that are coming from a different  
11     environment back into a social environment --

12          Q.       Okay.

13          A.       -- and so to be just attentive to  
14     the way they're reacting, it might be different  
15     than other times. And professors were speaking  
16     up at just how different it was. And you're  
17     trying to do a conversation in a public space  
18     and you're not getting the typical reactions,  
19     so be mindful of that.

20          Q.       On the first page of the exhibit,  
21     which is also the latest of the emails in this  
22     chain, you wrote back to Robert Lount, correct?

23          A.       Right.

24          Q.       And it looks like you apologize as  
25     well here.

Page 181

1           A.       Yeah. So I was just feeling badly  
2       that there was a student that was really  
3       feeling badly about the way I was teaching.  
4       And I was personally concerned and hurt by how  
5       my teaching method was being -- how it landed.

6           Q.       Okay. Did you have any -- other  
7       than the phone conversation, did you have any  
8       other conversations with Robert Lount  
9       concerning this incident in class?

10          A.       No.

11          Q.       What about -- what about -- so  
12       basically you didn't discuss the Whitey Bulger  
13       incident with Robert Lount after the phone call  
14       that occurred after this email?

15          A.       Right, right.

16          Q.       Did you talk to Makhija about what  
17       happened, Dean Makhija?

18          A.       So I continued to try to -- in the  
19       fall of 2021, tried to get in front of Bob  
20       Lount --

21          Q.       Okay.

22          A.       -- to find out what's going on. I  
23       understand there must be some -- something  
24       going on, and he would not meet with me.

25          Q.       Okay. And when you say, "Not meet

Page 182

1       with you," you mean Bob Lount, right?

2           A.       Bob Lount.

3           Q.       And what about Dean Makhija, did  
4       you talk to him between this late September and  
5       February 22?

6           A.       I talked to him late spring of 2022  
7       before leaving.

8           Q.       So you didn't talk to him that  
9       whole interim?

10          A.       Right. I did try to get ahold of  
11       HR. A number of different times I tried to get  
12       in front of Bob Lount. And I felt, well, let's  
13       just see how this unfolds.

14          Q.       What about Ben Tepper, did you  
15       contact him between late September of 2021 and  
16       February of '22, when you were notified of your  
17       nonrenewal?

18          A.       So neither he tried to reach me nor  
19       the other way around.

20          Q.       Okay. Was there an investigation  
21       that occurred after this incident, are you  
22       aware?

23          A.       I don't know what -- part of the  
24       problem was they're leaving me out of whatever  
25       was happening behind the curtain. So I didn't

Page 183

1 know what they were doing.

2 Q. What is the Office of Institutional  
3 Equity at OSU?

4 A. You know, I'm not sure what it is.  
5 It's not something that I would ordinarily,  
6 regularly be involved in.

7 Q. Do you know what they do?

8 A. No.

9 Q. Did you ever talk to anyone from  
10 the Office of Institutional Equity, after the  
11 Whitey Bulger incident?

12 A. You know, I received one call out  
13 of the blue at night from someone. It may have  
14 been from that office. Like I'm not familiar  
15 with that office. And it was a brief call, so.

16 Q. And who was that with?

17 A. I'm not sure who.

18 Q. What did you discuss?

19 A. So I remember it was a female  
20 voice. And the person was saying that they  
21 were calling to just check in on your Crucial  
22 Conversations class. And I said, "Who are  
23 you?" And what is -- and it was mostly a  
24 one-sided conversation. I just shared -- so I  
25 first asked a little bit about, what do you do,

Page 184

1 and she basically said something to the  
2 effect -- it was a short call, but it was  
3 something to the effect of, I do quality  
4 assurance for people's rights in different  
5 perspectives and so on.

6 Q. Do you remember roughly when this  
7 took place, this call?

8 A. I think it was sometime in the fall  
9 of 2021.

10 Q. Do you know the month it took  
11 place?

12 A. No.

13 Q. Okay. What did they tell you at  
14 the end of the call? Did they tell you what  
15 next steps would be or anything like that?

16 A. They just said, Well, I am sure  
17 that your school administration and HR will be  
18 in touch with you, if there's any concerns or  
19 issues that need to be further discussed.

20 Q. Do you remember -- does the name  
21 Courtney Johnson ring a bell?

22 A. Very vague. Was that the person  
23 from Institutional -- from this Institutional  
24 Equity?

25 Q. I can't answer your question.

Page 185

1                   MR. PETROV: Yeah, just answer to  
2 the best of your recollection.

3                   A. Yeah, I don't know.

4                   Q. Okay. Do you remember having a  
5 conversation with a woman in and around  
6 January 19, 2022, about the Whitey Bulger  
7 incident?

8                   A. I remember having a conversation  
9 with -- I think it was a woman, this call, but  
10 I really don't know about the timetable.

11                  Q. So there was only one time you  
12 talked to her?

13                  A. Yes.

14                  Q. Okay. And was there any sort of  
15 communication during this call -- or, I'm  
16 sorry. Strike that. During this call with  
17 this woman from OIE, was there any indication  
18 that disciplinary action would be taken against  
19 you?

20                  A. Not that I know of.

21                  Q. So there was no discussion for any  
22 sort of disciplinary or some sort of negative  
23 consequences for your use of the, "N," word in  
24 class the prior --

25                  A. Yeah, no.

Page 186

1           Q.        Okay. Please have Exhibit 8 out  
2 and just have it handy to flip through.

3           MR. PETROV:     That's the  
4 complaint. (Handing.)

5           THE WITNESS:    Thank you.  
6                        - - - - -  
7                       (Thereupon, Deposition Exhibit 18,  
8 Plaintiff's Responses To Defendants'  
9 First Set of Interrogatories and  
10 Requests For Production of Documents  
11 To Plaintiff, was marked for  
12 purposes of identification.)  
13                       - - - - -  
14 BY MR. STOUFFER:  
15           Q.        I'm going to give you what's been  
16 marked Defendant's Exhibit 18. Okay. Do you  
17 recall receiving and answering defendants'  
18 interrogatories issued to you?  
19           A.        Yes.  
20           Q.        And you took your time to consider  
21 your response and assure the responses are  
22 truthful?  
23           A.        Yes.  
24           Q.        All right. Can you go to page 6 of  
25 Exhibit 18 and please read both the

Page 187

1 interrogatory and response to interrogatory 5.

2 A. "Set forth all facts upon which  
3 Plaintiff bases his allegations in Paragraph 41  
4 of the Complaint including subparts A  
5 through C."

6 "Answer: Objection. The interrogatory  
7 is vague, overbroad, compound" --

8 Q. And you can -- I'm sorry. You can  
9 read it quietly.

10 A. Oh, I'm sorry.

11 Q. I apologize.

12 A. Yeah.

13 Okay.

14 Q. All right. And then as to the  
15 complaint, can you go to page ID 228, which is  
16 on page 8 of Exhibit 8.

17 MR. PETROV: The other exhibit.  
18 He's asking you to turn to page 8 of this  
19 document. (Indicating.)

20 THE WITNESS: Thank you.

21 Q. And then paragraph 41.

22 A. Okay.

23 Q. Okay. So I want to ask -- I'm  
24 going to go one by one. For William  
25 Wattercutter, what facts do you know that you

Page 188

1 base your allegation in paragraph 41, that  
2 Mr. Wattercutter knew or should have known that  
3 they were violating your Constitutional and  
4 contractual rights by subjecting you to an  
5 investigation?

6 A. It was common understanding that in  
7 an academic environment such as this where  
8 there were 200 faculty members, we would talk  
9 about the freedom of expression, you know. I  
10 mean, that was something that was just in the  
11 air, that we had the -- that these were our  
12 classes. We had the right to be able to teach  
13 and practice the way we felt best. And I think  
14 as an HR person who was walking the hallways,  
15 he should be aware of that.

16 Q. Is there any conversation or a  
17 document that you have personal knowledge of  
18 that shows that Mr. Wattercutter was involved  
19 with or knew about your investigation -- the  
20 investigation into the Whitey Bulger incident?

21 A. There was -- his name was on a  
22 list, you know, that -- can I ask --

23 Q. No.

24 MR. PETROV: No. Just answer to  
25 the best of your ability.

Page 189

1           A.       Yeah, it was on a list that I saw.

2           Q.       Is that the internal document you  
3       asked about or talked --

4           A.       I think so, yeah.

5           Q.       Okay. And that's the internal  
6       document you couldn't answer, "Yes," or, "No"  
7       where you had seen it?

8           A.       Correct.

9           Q.       Okay. Regarding Jennifer McLendon,  
10      same question. What makes you believe that she  
11      should have -- she knew or should have known  
12      that she was violating your Constitutional  
13      rights by subjecting you to an investigation?

14          A.       Same answer.

15          Q.       The internal document?

16          A.       Well, that she should have known  
17      about my Constitutional right, that it was  
18      something that was discussed amongst faculty  
19      all over the place and --

20          Q.       How do you know that Jennifer  
21      McLendon -- because I'm not asking about other  
22      faculty. I'm asking about one of the  
23      individual defendants you sued. What specific  
24      facts tie Jennifer McLendon to, A, knowing that  
25      your Constitutional rights were being violated

Page 190

1 by having you investigated for the Whitey  
2 Bulger incident?

3 MR. PETROV: Objection to form.

4 You can answer if you know what's being  
5 asked.

6 THE WITNESS: I don't care to.

7 MR. PETROV: No. If you're able  
8 to answer the question, you can. And if you  
9 can't answer the question you can't --

10 THE WITNESS: Okay.

11 MR. PETROV: -- but your desire  
12 to is irrelevant.

13 THE WITNESS: Okay. Thank you,  
14 sir.

15 MR. PETROV: Sure.

16 BY MR. STOUFFER:

17 A. So I felt that as -- so I'm someone  
18 that has managed HR functions in industry for  
19 years. And then I taught HR there at the  
20 school. And I taught best practices. And it  
21 was my belief that HR professionals should know  
22 what our rights are and that -- that would be  
23 like common -- common table stakes.

24 Q. Okay. Well, let me ask this then:  
25 Does Jennifer McLendon or William Wattercutter

Page 191

1 work for OIE?

2 A. I'm not sure what their -- what the  
3 organizational structure is in terms of  
4 reporting relationships.

5 Q. In terms of Anil Makhija, does he  
6 work in OIE at OSU?

7 A. I don't think so.

8 Q. What about Robert Lount, does he  
9 work in OIE?

10 A. I don't think so, but what I'm --

11 MR. PETROV: Just --

12 THE WITNESS: Okay.

13 Q. What about Robert Lount? Or, I'm  
14 sorry.

15 A. Ben Tepper?

16 Q. Ben Tepper?

17 A. Yeah, I don't think so.

18 Q. Okay. Do you personally know any  
19 facts that tie the five individual defendants  
20 to the decision to investigate you for the  
21 Whitey Bulger incident by OIE?

22 A. Well, I was told three times by --  
23 so by Bob Lount, Ben Tepper and Anil Makhija --

24 Q. When?

25 A. -- that --

Page 192

1           Well --

2           Q.       Sorry.

3           A.       -- in September and in February and  
4       in May that I was being fired because -- or  
5       released because of my teaching practice in the  
6       classroom.

7           Q.       Now, you just listed September.

8       September of '21, you were told you were going  
9       to be terminated?

10          A.       Well, it -- well, actually, he was  
11       introducing the topic. And then in February,  
12       he actually said that I was being -- I was  
13       losing my job.

14          Q.       What do you mean by, "Introducing  
15       the topic"?

16          A.       Well, he called to say, "What is  
17       going on? HR has forced me to call you to find  
18       out what -- get a status check on what's going  
19       on in your class."

20          Q.       We saw the email previously --

21          A.       Yeah.

22          Q.       -- where Lount reached out to you  
23       to ask you about the incident, the Whitey  
24       Bulger incident. Is there anywhere in that  
25       email that you saw that he threatened you with

Page 193

1 discipline or termination over the incident?

2 A. So he would not meet with me for  
3 many months and that signalled something.

4 How --

5 Q. But didn't you say earlier in your  
6 deposition today that Robert Lount had  
7 historically avoided you even before this  
8 incident?

9 A. He was someone that didn't care for  
10 being around me but, I mean, that was just, you  
11 know, unrelated to the fact that -- that this  
12 whole incident came up. But he would not meet  
13 with me to deal -- to address any questions I  
14 had about this.

15 Q. Okay. I'm going to move on to  
16 subsection B. Of the five individuals that  
17 you're suing, was there ever an instance where  
18 they told you, You cannot use racial slurs as  
19 part of your classroom curriculum and your  
20 speech in class?

21 A. No.

22 Q. So they never said that, Oh, you  
23 can't use the, "N," word in class when you're  
24 teaching Crucial Conversations?

25 A. No. And they chose not to say all

Page 194

1 kinds of things because they never gave me  
2 feedback.

3 Q. Okay. And then for subsection C,  
4 terminating your employment, based on the  
5 Crucial Conversations Whitey Bulger material;  
6 when you were notified of your contract  
7 nonrenewal and when you discussed it with  
8 Tepper, Lount and Makhija, did they ever tell  
9 you that, We are doing this because of your  
10 Whitey Bulger speech?

11 MR. PETROV: Asked and answered.

12 But go ahead, Mark. You can answer the  
13 question.

14 A. They told me because of my teaching  
15 practice, that I was being let go because of my  
16 Crucial Conversations teaching methods and  
17 practices.

18 Q. And who said that?

19 A. So all three. In different ways,  
20 they all said that.

21 Q. When you say, "Different ways,"  
22 what do you mean by that? And let's go through  
23 each case. So Lount, "Different ways," what do  
24 you mean?

25 A. So he said, "Your -- the teaching

Page 195

1 practice in your Crucial Conversation class was  
2 something that was under review with HR and it  
3 was a real problem and you need to talk to them  
4 to get more detail about it."

5 With --

6 Q. And that was in February of '22?

7 A. Yes.

8 Q. And now let's go to Ben Tepper.  
9 When did he say anything that indicated that  
10 your nonrenewal was linked to the Whitey Bulger  
11 material?

12 A. In May of 2022, he told me that he  
13 was sorry that I was charged with this kind of  
14 student interaction and that a similar thing  
15 had happened to him. And I'm -- and when I  
16 said, "Well, what did you do?" And he said,  
17 "Well, this happened to me as well." And I  
18 think he meant recently that a student had  
19 charged him with something. And he said, "I  
20 went -- I felt humiliated. I was not going to  
21 be" -- so he said, "I needed to go to  
22 leadership and get this taken care of  
23 immediately." And since he was in leadership,  
24 I thought that was really interesting, but he  
25 wouldn't stand for me, you know, so that was --

Page 196

1           Q.       That's all he said on -- that's  
2 what you meant by, In so many ways, with regard  
3 to Ben Tepper?

4           MR. PETROV:   Object to form.

5           But go ahead, Mark.

6           A.       Yeah, so his main point was, you  
7 got let go because of your teaching practice in  
8 your Crucial class. So that was the main point  
9 he was making, even though he apologize -- he  
10 said, "I'm sorry that this happened to you." I  
11 mean, we had been friends and became good  
12 colleagues and so he was feeling badly for it.  
13 And he said, "The same thing happened to me in  
14 my class. I ran into a problem with a  
15 student."

16          Q.       Regarding Bill Wattercutter and  
17 Jennifer McLendon, what specific facts do you  
18 know -- personally know that they terminated  
19 your employment based on your conduct in the  
20 Crucial Conversations course and the Bulger  
21 content?

22          A.       So with Bill Wattercutter, it was  
23 simply -- it was very little. It was, You  
24 know, Mark, I'm not in a position to go into  
25 detail about this, but you're, you know, under

Page 197

1 review for your teaching practice and what's  
2 going on there.

3 Q. And when was that statement made?

4 A. You know, I think that was -- I  
5 think sometime in the spring --

6 Q. Okay.

7 A. -- yeah, but I can't say -- I don't  
8 know when.

9 Q. Are you aware if Bill Wattercutter  
10 has the authority to not renew senior lecturer  
11 contracts on his own?

12 A. Yeah, I don't think he does. I  
13 think he's more of an influencer than a  
14 decisionmaker.

15 Q. And what do you mean by that?

16 A. So he could influence. He could  
17 make recommendations. He could share  
18 information, but he couldn't make an up or down  
19 decision.

20 Q. Have you seen any document or had  
21 any conversation that would reflect that he  
22 played that kind of role in your nonrenewal?

23 A. No specific document but he did --  
24 you know, he -- I think he was on a list of  
25 people that was reviewing or seeing things.

Page 198

1 Q. The internal document?

2 A. Yeah.

3 Q. What about Jennifer McLendon? Same  
4 question. What specific information do you  
5 have that she made the decision to terminate  
6 you for the material in your Crucial  
7 Conversations course?

8 A. Similar answer. I believe there's  
9 not much more to add to what Bill, William had  
10 to say.

11 Q. Okay. Let's go to interrogatory 6  
12 in Exhibit 18. And when it comes to Exhibit 8,  
13 we're going to refer to paragraph 45.

14 A. I'm sorry. What page?

15 Q. I apologize. So in Exhibit 18, the  
16 interrogatories, please go to number 6. And  
17 then when it comes to the complaint, Exhibit 8,  
18 please go to paragraph 45.

19 A. (Witness complies.)

20 Q. And I'm going to read paragraph 45.  
21 So this is under the, First cause of action,  
22 first amended retaliation under 42 USC,  
23 section 1983. Paragraph 45: "By punishing and  
24 terminating Plaintiff for expressing his views  
25 in his academic speech and educational course

Page 199

1 content, Defendants have retaliated against  
2 Plaintiff for exercising his First Amendment  
3 rights."

4           Interrogatory 6 asked, "Set forth all  
5 facts upon which Plaintiff bases his allegation  
6 in Paragraph 45 of the Complaint that," and  
7 then that, By punishing and terminating  
8 Plaintiff for expressing his views, and it goes  
9 on to quote paragraph 45.

10          So is this -- so regarding number 45, are  
11 your responses to what we just went through,  
12 which was interrogatory 5 relating to  
13 paragraph 41, subparts A through C, are your  
14 responses going to be the same regarding your  
15 response to interrogatory 6?

16           MR. PETROV: I'm sorry. I don't  
17 know what that question is.

18           MR. STOUFFER: Okay. I'll  
19 rephrase.

20          Q. I'm saying: In terms of the facts  
21 that you would use or cite in support of your  
22 paragraph 45, would it simply be the same  
23 information you just shared with us in response  
24 to interrogatory 5 and us going through  
25 paragraph 41?

Page 200

1 MR. PETROV: Objection to form.

2 But you can answer to the best of your  
3 ability.

4 A. So all I know is that we -- in an  
5 educational environment like that that it was  
6 made public in all sorts of forums of what our  
7 rights were. I mean, this is not a shy crowd,  
8 a bunch of professors talking about what their  
9 rights are. And, you know, any good HR person,  
10 you know, any administrator would have heard or  
11 been aware of concerns about freedom --  
12 academic freedom and rights thereof, so --

13 Q. Okay.

14 A. -- I mean, in staff meetings, in  
15 compensation review committees, in all kinds  
16 of -- it just would flow through the work of  
17 doing the business of running a school that --

18 Q. Okay. So what specific facts do  
19 you base paragraph 45 in your complaint  
20 regarding William Wattercutter? And this is  
21 specific facts that you have personal knowledge  
22 of.

23 A. So I thought you asked me this  
24 question before.

25 MR. PETROV: Just note my objection

Page 201

1 because he didn't prepare the complaint and it  
2 calls for legal conclusions.

3           But with that, you can do the best you  
4 can, Mark, to answer the question.

5           Q.     And so to save us time, that's why  
6 I asked if your responses to this interrogatory  
7 for each individual would be the same --

8           A.     Oh, okay.

9           Q.     -- as we went through with  
10 number 41, A through B.

11          A.     Yes.

12          Q.     All right. We're going to go on to  
13 interrogatory 7. This asks you, "Identify and  
14 describe specifically what speech or viewpoints  
15 Plaintiff believes he is either being  
16 retaliated against and/or discriminated against  
17 by Defendants. Include a description of the  
18 time and content, form and context of the  
19 speech and/or viewpoints Plaintiff contends he  
20 is being retaliated against and/or  
21 discriminated against by Defendants."

22          So let's go one by one. Or, strike that.  
23 What is the speech that you believe you're  
24 being retaliated against for?

25          A.     For how I was teaching in the

Page 202

1 class.

2 Q. Anything else?

3 A. That's a lot. That I was -- I lost  
4 my job based on how I was trying to help others  
5 learn in this -- in this topic and the way that  
6 I was doing it was why I was -- lost my job.

7 Q. And what speech specifically do  
8 you --

9 A. Well, the Whitey Bulger -- sorry.

10 Q. -- do you contend that you were  
11 retaliated against and/or discriminated against  
12 by the individual defendants?

13 A. So the Whitey Bulger is -- is the  
14 speech in particular that I would say as an  
15 example.

16 Q. Is that the only speech you believe  
17 that you were discriminated or retaliated  
18 against for?

19 A. No. I mean, there's other  
20 examples. So this student or whoever the  
21 student maybe had recruited were  
22 inappropriately challenging me on my executive  
23 presence, the content material, which is how to  
24 respectfully touch with someone to show  
25 affirmation or support. You know, just

Page 203

1 multiple ways and times. You know, I found  
2 that to be really not only them crossing the  
3 line but also very offensive, that I would be  
4 that kind of a person. I mean, that was really  
5 humiliating and insulting as just a  
6 hardworking, honest, Catholic person that I  
7 would be -- it'd be like character defamation.

8 Q. So I need to clarify because -- so  
9 other than the Whitey Bulger speech, what other  
10 speech are you contending you were --

11 A. So nonverbal speech --

12 Q. Hold on.

13 A. Okay.

14 Q. -- what other speech other than the  
15 Whitey Bulger speech do you contend you were  
16 discriminated or retaliated against by the  
17 individual defendants?

18 MR. PETROV: Okay. Objection,  
19 asked and answered.

20 You can go ahead and answer the question  
21 again.

22 A. Nonverbal speech.

23 Q. Nonverbal speech. Okay. All  
24 right. Let's go on to interrogatory 8. We  
25 asked you to identify all individuals whom you

Page 204

1 contend defendants treated better than you and  
2 describe with specificity each occasion on  
3 which he or she received better treatment.  
4 There was an objection.

5 And then the answer provided states, "Ben  
6 Tepper." Do you see that?

7 A. Where? Is that on page 7?

8 Q. Interrogatory 8. That's page 7.

9 MR. PETROV: (Indicating.)

10 A. Okay. Great. Thank you.

11 Q. And then there's the answer with  
12 the objection. And then you write below the  
13 objection, "Ben Tepper."

14 A. Yes.

15 Q. So can you kind of -- can I ask  
16 you, on what basis have you identified Bennett  
17 Tepper as being treated better than you?

18 A. When he revealed that he had a  
19 similar challenge with a student in a class he  
20 was teaching and he wasn't fired, he had -- he  
21 said he went and had to fix this right away  
22 with leadership. So I thought, wow, same thing  
23 happens to me. I don't get anyone trying to  
24 fix it for me, but because he's a senior  
25 associate dean, he has connections. He can go

Page 205

1 to his peers and get this fixed right away, but  
2 I can't even get my own boss to answer a phone  
3 call or to open his office door even though  
4 he's right behind it to have a sit-down  
5 conversation. I can't get him or a student  
6 that's in this class to -- we can't sit and  
7 talk through this.

8 Q. Okay. And so do you remember the  
9 substance of the complaint that Bennett Tepper  
10 was allegedly subjected to -- or the subject  
11 of?

12 A. Yeah, so it -- what I was struck  
13 with was how much he was mirroring my  
14 experience with his experience, that he had a  
15 student in his class that was having -- that  
16 was challenging him in how he was teaching.

17 Q. Did he ever convey to you that this  
18 student had complained of anything involving  
19 racial slurs?

20 A. He didn't specify in terms of what  
21 exactly were the words, but he said, "Like you,  
22 Mark, I had a student that was also challenging  
23 how I was teaching to the extent that the  
24 student wanted to get me fired. I had to fix  
25 that right away."

Page 206

1 Q. And is that the extent of your  
2 knowledge of this student complaint --

3 A. Yes.

4 Q. -- against Tepper?

5 A. Yes.

6 Q. All right. So you separated from  
7 employment from OSU in May of 2022, correct?

8 A. Yes.

9 Q. Can you describe what attempts you  
10 made at finding similar or superior employment  
11 to what you had at OSU?

12 A. So I have reached out to a number  
13 of -- so I've done a number of things. So one  
14 thing is, I have reached out to different  
15 educational -- higher ed institutions of  
16 learning around executive ed. I've been hired  
17 as a contractor at Case to work once and I  
18 will -- I'm under contract to teach a course --  
19 it's a workshop in their executive ed program  
20 at Weatherhead Management School.

21 I've applied to other schools in the  
22 executive ed arena. I've started my own  
23 business, which is taking some time to do the  
24 startup and the build-out and I'll be launching  
25 sometime in the near term. So those are all

Page 207

1       things I'm doing. I'm doing executive  
2       coaching. I'm just starting with that, so I  
3       have a -- I have one gentleman in Cleveland.  
4       And I'm meeting someone in Columbus to  
5       potentially -- potentially have a twelve-week  
6       engagement with him.

7           Q.       Okay. So the jobs you're applying  
8       for at Case and other universities, are these  
9       also similar --

10          A.        Yeah --

11          Q.        -- professor positions?

12          A.        -- yeah. Well, they're contractor  
13       programs -- contractor work in executive ed,  
14       which is really a little different than -- so  
15       it is -- it is focused more towards an older  
16       population, folks like people in this room that  
17       are professionals and looking at more  
18       adopting -- learning about some refined skills.

19          Q.        Okay. And then you kind of -- I  
20       just want to ask you about some wording you  
21       just used. So your consulting firm, has it  
22       officially launched as of now or is it still  
23       in --

24          A.        It's in development.

25          Q.        It's in development. Is it

Page 208

1 currently generating any sort of revenue  
2 streams?

3 A. So I have one executive coaching  
4 gig. It's going to -- what the Performance  
5 Learning Academy, my business that I'll be  
6 launching in the near term will focus on is  
7 executive coaching, on speaker engagements and  
8 a speaker lab.

9 Q. I understand there are many plans,  
10 but it sounds like there is at least some  
11 current as of today revenue stream or streams.

12 A. Right.

13 Q. Okay. And then do you have an  
14 approximation of how much money you are making  
15 now given your activities as compared to when  
16 you worked at OSU?

17 A. You know, I'm just making a couple  
18 hundred bucks here and there as opposed to the  
19 kind of income stream that was permanent and  
20 stable under OSU.

21 Q. Have you spoken with anyone at the  
22 university or Fisher College of Business about  
23 your lawsuit or your claims since leaving?

24 A. No, no.

25 Q. Okay. I forget which one it was.

Page 209

1 Are you seeking any emotional distress damages  
2 as part of the remedies that you are seeking in  
3 this action?

4 MR. PETROV: He is, but I'm  
5 answering just because that calls for knowledge  
6 of the law and by extension for a legal  
7 conclusion.

8 But you can answer your experience, if  
9 you'd like to weigh in, too, Mark.

10 A. Yes.

11 Q. Okay. I'm looking at the top of  
12 page 8 of Defendant's Exhibit 8. It's part of  
13 the response -- your answer and objections to  
14 defendants interrogatory 9. It says, "Subject  
15 to and without waiving any objection, Plaintiff  
16 suffered garden variety emotional distress,  
17 emotional harm and damages as a result of  
18 Defendants' conduct." I just kind of want to  
19 explore that a bit.

20 How would you describe your -- how would  
21 you describe your garden variety emotional  
22 distress since being separated?

23 MR. PETROV: You're looking at  
24 the wrong document.

25 Just give him one second to catch up.

Page 210

1 MR. STOUFFER: Yeah, that's fine.

2 MR. PETROV: That document,  
3 page 8 at the top.

4 MR. STOUFFER: At the top, yeah.

5 MR. PETROV: What counsel just  
6 read was this sentence here, "Subject to and  
7 without waiving," so you can catch up there.

8 (Indicating.)

9 THE WITNESS: Yeah.

10 MR. STOUFFER: Thank you.

11 THE WITNESS: Thank you.

12 BY MR. STOUFFER:

13 A. So as a psychologist, I've been  
14 trained and aware of different levels and types  
15 of emotional conditions. I would say simply in  
16 everyday language, you know, I've been anxious.  
17 I have a family of three young men, sons that  
18 I'm proud of that -- and a good wife that this  
19 has been a real burden.

20 I feel that I am blessed with a lot of  
21 good people, my family included, and we have  
22 suffered and had to sell -- with loss of income  
23 and circumstances, had to sell a house in  
24 Columbus, move from our family and friends in  
25 Columbus to this town here, which is, you know,

Page 211

1       a nice town but there was, you know, the burden  
2       of relocation and the worry about how I would  
3       pay bills, you know, has been tremendously  
4       burdensome.

5           Q.     Have you been unable to engage in  
6       income generating activities due to the  
7       emotional affects of your separation from  
8       employment?

9           A.     No.

10           MR. STOUFFER: Let's take a  
11       ten-minute break. I am pretty close to done.

12           THE WITNESS: Okay.

13           I should say, I still get a lot of  
14       students calling me and I'm guiding and  
15       coaching them. I have a lot of texts and  
16       emails and so on of students that have found  
17       out how to reach me, so I'm helping them versus  
18       the other way around.

19           MR. STOUFFER: Okay. Well, thank  
20       you.

21           MR. PETROV: All right.

22           VIDEOGRAPHER: Off the record. The  
23       time is now 4:16.

24                           (Recess taken.)

25           VIDEOGRAPHER: We're back on the

Page 212

1 record. The time is now 4:29.

2 BY MR. STOUFFER:

3 Q. Okay. I would like to go back to  
4 page 6 of Defendant's Exhibit 18.

5 MR. PETROV: All right. Hold on.  
6 I'll give it to him. I took it all away.

7 Okay. There's Exhibit 18. (Handing.)

8 Q. And page 6. I just have one  
9 question, and this is in reference to number 5.  
10 So do you recall we were discussing about how  
11 Lount, Tepper and Makhija, I think the phrasing  
12 was, quote, In so many ways, unquote, said that  
13 your separation from employment was motivated  
14 by your academic speech, I forgot to ask about  
15 Makhija. What did Dean Makhija say that made  
16 you believe that your separation from  
17 employment was caused by your academic speech?

18 A. When he said to me that, "There was  
19 some investigative efforts into your teaching  
20 practice in Crucial Conversations," and I asked  
21 for more detail and he said, "You'd have to  
22 speak to HR" --

23 Q. Okay.

24 A. -- so given his title and position,  
25 I just -- I felt like he -- that was probably

Page 213

1       the best answer he could give from his  
2       standpoint but I think he could have said more.

3           Q.     And was that the conversation you  
4       had with him in and around, was that May  
5       of 2022?

6           A.     Yes.

7           Q.     Okay. Did he say anything else,  
8       other than that?

9           A.     Yeah. He -- I asked him if he  
10       could help me, that I had always helped the  
11       school out for all these years. Whenever you  
12       needed extra -- extra courses taught, I went  
13       out of my way and I thought, I would really  
14       appreciate it if you could look into this and  
15       help me out in whatever way would be possible.

16          Q.     Okay. And then I asked you before  
17       a break about your applications for equivalent  
18       or --

19          A.     Yeah.

20          Q.     -- superior employment. Do you  
21       know approximately how many applications you  
22       submitted?

23          A.     So, you know, I would say over time  
24       it's been a couple of dozen, a number of  
25       different places.

Page 214

1 Q. Have you been given any offers from  
2 those applications?

3 A. There's interest. Like the  
4 University of Michigan is -- verbally there's  
5 been some interest.

6 Q. But has there been any offers of  
7 employment from any of the applications --

8 A. So Case has offered, you know,  
9 contract work.

10 Q. And is that for a professor  
11 position or --

12 A. For executive ed.

13 Q. Executive ed?

14 A. Right.

15 Q. What about any sort of teaching or  
16 education positions for like an equivalent of a  
17 senior lecturer at a different institution,  
18 have you applied for any positions like that?

19 A. No. I've been applying for  
20 executive ed. It's more money with less time  
21 and it's also what I'm known for.

22 Q. Okay. So you haven't applied to  
23 any sort of like lecturer positions at other  
24 universities?

25 A. Right --

Page 215

1 Q. Okay.

2 A. -- but I consider this to be  
3 even -- executive ed is considered top of the  
4 teaching mountain, if you will, or hierarchy  
5 that -- you know, that it's considered an honor  
6 and it's significantly more pay and  
7 opportunity.

8 Q. Have you received any rejections  
9 for positions you applied to?

10 A. Not yet.

11 Q. Okay. Other than the five named  
12 individual defendants, are you aware of anyone  
13 else at the university or Fisher College of  
14 Business who you believe has violated your  
15 right to academic free speech under the First  
16 Amendment?

17 A. Not at this time.

18 Q. So at this time you're not aware of  
19 anyone who has -- anyone outside of the five  
20 individual defendants that you believe have  
21 violated your right to academic free speech?

22 A. Not at this time.

23 MR. STOUFFER: Okay. I think we're  
24 done.

25 MR. PETROV: Okay.

Page 216

1 EXAMINATION OF MARK SULLIVAN

2 BY MR. PETROV:

3 Q. I have like probably less than 120  
4 seconds. So, Mark, I'm going to give you what  
5 had been introduced to you as Defendant's  
6 Exhibit 6, which is the February 2022  
7 termination letter, right? Is that right?

8 A. Yes.

9 Q. Okay. And that's addressed to you  
10 from Mr. Makhija, correct?

11 A. Yes.

12 Q. And can you read the cc line? Who  
13 are the people who received cc's?

14 A. Professor Robert Lount, Professor  
15 Bennett Tepper and Jennifer McLendon.

16 Q. And this is the letter that you  
17 received informing you of your termination of  
18 employment?

19 A. Yes.

20 Q. And you saw all four of those  
21 people either authoring or cc'd on the  
22 document?

23 A. Yes.

24 Q. And did you, from seeing their  
25 names on this document, conclude that they had

Page 217

1 involvement with the decision to terminate your  
2 employment?

3 A. Yes.

4 Q. And your earlier testimony about  
5 internal documents, is this the same or similar  
6 to what you described as an internal document  
7 showing the involvement of those people?

8 A. Yes.

9 Q. Okay. That's all I have on that.  
10 Defendant's Exhibit 10 is your annual  
11 revenue from Bob Lount in April of 2020.

12 A. Yes.

13 Q. And Mr. Stouffer asked you some  
14 questions relating to some SEI scores in your  
15 courses --

16 A. Yes.

17 Q. -- do you remember talking about  
18 that topic?

19 A. Yes.

20 Q. Did this review also contain an  
21 overall scholarly rating?

22 A. Yes.

23 Q. And what was that for the 2020  
24 review? It's the first sentence under the  
25 bold, point evaluation. What did you receive?

Page 218

1           A.       SB, substantially beyond.

2           Q.       And did you understand that to be  
3       the top rating you could receive as a professor  
4       from Mr. Lount?

5           A.       Yes.

6           Q.       And is the fact that you got a  
7       substantially beyond rating, did that  
8       contribute to your decision to not contest in  
9       writing the SEI scores you received from your  
10      class?

11          A.       Yes.

12          Q.       Okay. And lastly -- you can put  
13      that down. And lastly, I'll give you  
14      Defendant's Exhibit 11, which is the same  
15      format of annual review you received in 2021  
16      from Mr. Lount. You see this follows a very  
17      similar format to Exhibit 10, right?

18          A.       Yes, yes.

19          Q.       On page 2, there's a paragraph  
20      titled, "Evaluation."

21          A.       Yes.

22          Q.       What was the evaluation you  
23      received from Mr. Lount in April of '21?

24          A.       Meets or beyond.

25          Q.       And then looking at the first page,

Page 219

1 did you understand that to mean that Mr. Lount  
2 believed your performance either met or was  
3 beyond his expectations?

4 A. Yes.

5 Q. And did receiving that review from  
6 Mr. Lount in April of 2021, contribute to your  
7 decision to not contest in writing the SEI  
8 scores that you received?

9 A. Yes.

10 MR. PETROV: Okay. I have no other  
11 questions.

12 EXAMINATION OF MARK SULLIVAN  
13 BY MR. STOUFFER:

14 Q. Just one question. Going back to  
15 Defendant's Exhibit 6 -- I believe it's this  
16 one -- under the, cc line, do you see William  
17 Wattercutter's name there?

18 A. No.

19 MR. STOUFFER: Okay. And that's it.

20 MR. PETROV: Okay. We'll read.

21 VIDEOGRAPHER: We're off the record.  
22 The time is now 4:38.

23 (Thereupon, the deposition  
24 was adjourned at 4:38 p.m.)  
25

Page 220

1 Whereupon, counsel was requested to give  
2 instruction regarding the witness's review of  
3 the transcript pursuant to the Civil Rules.

4

5 SIGNATURE:

6 Transcript review was requested pursuant to the  
7 applicable Rules of Civil Procedure.

8

9 TRANSCRIPT DELIVERY:

10 Counsel was requested to give instruction  
11 regarding delivery date of transcript.

12 David B. Stouffer ordered the original  
13 transcript regular delivery.

14

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Page 221

1                   REPORTER'S CERTIFICATE

2       The State of Ohio,      )

3                   SS:

4       County of Cuyahoga.    )

5

6                   I, Tracy Morse, a Notary Public  
7       within and for the State of Ohio, duly  
8       commissioned and qualified, do hereby certify  
9       that the within named witness, MARK SULLIVAN,  
10      was by me first duly sworn to testify the  
11      truth, the whole truth and nothing but the  
12      truth in the cause aforesaid; that the  
13      testimony then given by the above-referenced  
14      witness was by me reduced to stenotypy in the  
15      presence of said witness; afterwards  
16      transcribed, and that the foregoing is a true  
17      and correct transcription of the testimony so  
18      given by the above-referenced witness.

19                  I do further certify that this  
20      deposition was taken at the time and place in  
21      the foregoing caption specified and was  
22      completed without adjournment.

23

24

25

Page 222

1                   I do further certify that I am not  
2 a relative, counsel or attorney for either  
3 party, or otherwise interested in the event of  
4 this action.

5                   IN WITNESS WHEREOF, I have hereunto  
6 set my hand and affixed my seal of office at  
7 Cleveland, Ohio, on this 15th day of  
8 April, 2025.

9

10

11

12



13

14

Tracy Morse, Notary Public  
within and for the State of Ohio

15

16

17

My commission expires 1/26/2028.

18

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Page 223

Veritext Legal Solutions  
1100 Superior Ave  
Suite 1820  
Cleveland, Ohio 44114  
Phone: 216-523-1313

April 15th, 2025

TO: DANIEL P. PETROV, ESQ.

Case Name: Sullivan, Mark v. Makhijs, Anil Et Al

Veritext Reference Number: 7279726

Witness: Dr. Mark Sullivan Deposition Date: 4/1/2025

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness review the transcript and note any changes or corrections on the included errata sheet, indicating the page, line number, change, and the reason for the change. Have the witness' signature notarized and forward the completed page(s) back to us at the Production address shown above, or email to production-midwest@veritext.com.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,

## Production Department

NO NOTARY REQUIRED IN CA

Page 224

1 DEPOSITION REVIEW  
2 CERTIFICATION OF WITNESS

3 ASSIGNMENT REFERENCE NO: 7279726

4 CASE NAME: Sullivan, Mark v. Makhija, Anil Et Al

5 DATE OF DEPOSITION: 4/1/2025

6 WITNESS' NAME: Dr. Mark Sullivan

7 In accordance with the Rules of Civil  
8 Procedure, I have read the entire transcript of  
9 my testimony or it has been read to me.

10 I have made no changes to the testimony  
11 as transcribed by the court reporter.

12 \_\_\_\_\_ Date Dr. Mark Sullivan

13 Sworn to and subscribed before me, a  
14 Notary Public in and for the State and County,  
15 the referenced witness did personally appear  
16 and acknowledge that:

17 They have read the transcript;  
18 They signed the foregoing Sworn  
19 Statement; and  
20 Their execution of this Statement is of  
21 their free act and deed.

22 I have affixed my name and official seal  
23 this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.  
24

25 \_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration Date

Page 225

1 DEPOSITION REVIEW  
2 CERTIFICATION OF WITNESS

3 ASSIGNMENT REFERENCE NO: 7279726

4 CASE NAME: Sullivan, Mark v. Makhija, Anil Et Al

5 DATE OF DEPOSITION: 4/1/2025

6 WITNESS' NAME: Dr. Mark Sullivan

7 In accordance with the Rules of Civil  
8 Procedure, I have read the entire transcript of  
my testimony or it has been read to me.

9 I have listed my changes on the attached  
10 Errata Sheet, listing page and line numbers as  
well as the reason(s) for the change(s).

11 I request that these changes be entered  
as part of the record of my testimony.

12 I have executed the Errata Sheet, as well  
13 as this Certificate, and request and authorize  
that both be appended to the transcript of my  
testimony and be incorporated therein.

14 \_\_\_\_\_ Date Dr. Mark Sullivan

15 Sworn to and subscribed before me, a  
16 Notary Public in and for the State and County,  
the referenced witness did personally appear  
and acknowledge that:

17 They have read the transcript;  
18 They have listed all of their corrections  
in the appended Errata Sheet;  
19 They signed the foregoing Sworn  
Statement; and  
20 Their execution of this Statement is of  
their free act and deed.

21 I have affixed my name and official seal  
22 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
23 \_\_\_\_\_

24 Notary Public

25 Commission Expiration Date

Page 226

1 ERRATA SHEET

2 VERITEXT LEGAL SOLUTIONS MIDWEST

3 ASSIGNMENT NO: 7279726

4 PAGE/LINE(S) / CHANGE / REASON

5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
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9 \_\_\_\_\_  
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17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_

20 Date Dr. Mark Sullivan

21 SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_

22 DAY OF \_\_\_\_\_, 20\_\_\_\_\_. .

23 \_\_\_\_\_  
Notary Public

24 \_\_\_\_\_

25 Commission Expiration Date

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888-391-3376

[&amp; - 19]

Page 1

|                                                       |                                                     |                                                          |                                                          |
|-------------------------------------------------------|-----------------------------------------------------|----------------------------------------------------------|----------------------------------------------------------|
| <b>&amp;</b>                                          | <b>03174</b> 1:7 6:6                                | <b>10</b> 4:18 79:4                                      | 75:25 76:4                                               |
| <b>&amp; 138:22</b>                                   | <b>04/02/2019</b> 4:8<br>57:21                      | 112:6 115:3,10<br>115:14,16,23                           | 139:9 143:16<br>143:23                                   |
| <b>0</b>                                              | <b>04/09/2021</b><br>4:20 119:25                    | 118:2 119:17<br>119:18 148:10                            | <b>143</b> 5:5<br><b>15</b> 5:6 36:23                    |
| <b>000013-0000...</b><br>4:19 115:6                   | <b>04/10/2020</b>                                   | 217:10 218:17                                            | 38:7 59:25                                               |
| <b>000029-0000...</b><br>4:6 47:10                    | 4:18 115:4                                          | <b>100</b> 40:2                                          | 71:23 158:6,13                                           |
| <b>000054-0000...</b><br>4:21 120:2                   | <b>04/21/2015</b> 4:4<br>47:7                       | <b>100,000</b> 22:4<br><b>104</b> 4:16                   | 158:19,21<br>159:8 161:12                                |
| <b>000057</b> 4:9<br>57:23                            | <b>04/22/2021</b>                                   | <b>10:08</b> 1:15 6:3                                    | 172:13,14                                                |
| <b>000058</b> 4:11<br>59:9                            | <b>06/28/2017</b> 4:6<br><b>07032024.do...</b>      | <b>11</b> 4:20 119:24<br>120:6,10<br><b>1100</b> 223:1   | 173:6<br><b>150</b> 26:22<br><b>158</b> 5:6              |
| <b>000594</b> 5:10<br>164:19                          | 173:12                                              | <b>115</b> 4:18                                          | <b>15th</b> 222:7                                        |
| <b>002433</b> 4:7<br>54:24                            | <b>08/18/2021</b>                                   | <b>119</b> 4:20                                          | 223:4                                                    |
| <b>002434</b> 4:15<br>80:22                           | 4:14 80:20                                          | <b>11:47</b> 82:21                                       | <b>16</b> 4:3 5:8                                        |
| <b>002613</b> 4:17<br>104:13                          | <b>08/24/2020</b>                                   | <b>11th</b> 2:11                                         | 164:16,23                                                |
| <b>002622</b> 4:13<br>69:3                            | 4:22 133:23                                         | <b>12</b> 4:22 79:5                                      | 165:3 167:21                                             |
| <b>002701</b> 5:4<br>137:23                           | <b>09/28/2021</b> 5:8                               | 133:22 134:5                                             | <b>160,131.07</b>                                        |
| <b>002742-0027...</b><br>4:24 133:25                  | 164:17                                              | <b>12/31/2020</b>                                        | 81:16                                                    |
| <b>002750-0027...</b><br>5:12 177:17                  | <b>09/29/2021</b>                                   | 4:16 104:12                                              | <b>164</b> 5:8                                           |
| <b>002752</b> 178:1<br><b>02/25/2022</b><br>4:12 69:1 | 5:10 177:14                                         | <b>120</b> 10:1 34:14                                    | 17 5:10 177:13                                           |
|                                                       | <b>1</b>                                            | 216:3                                                    | 177:22 178:1                                             |
|                                                       | <b>1</b> 1:14 4:3 6:2<br>13:19 16:2,8<br>16:20 17:4 | <b>12427</b> 222:12<br><b>12:08</b> 82:24                | <b>177</b> 5:10<br><b>18</b> 5:13 35:8,9                 |
|                                                       | 31:25 56:13<br>58:15 90:1                           | <b>13</b> 5:3 137:20<br>138:2                            | 38:8 101:13<br>186:7,16,25                               |
|                                                       | 119:15 173:11                                       | <b>130</b> 50:19<br><b>130,000</b> 50:7                  | 198:12,15<br>212:4,7                                     |
|                                                       | <b>1/26/2028</b><br>222:17                          | <b>133</b> 4:22<br><b>137</b> 5:3<br><b>14</b> 5:5 52:21 | <b>1820</b> 223:2<br><b>186</b> 5:13<br><b>19</b> 144:11 |
|                                                       |                                                     | 60:1 69:24                                               | 185:6                                                    |

[1972 - 3200]

Page 2

|              |                                                                                         |              |                                                                                                                                            |                                              |                                                                                        |                 |                                                         |
|--------------|-----------------------------------------------------------------------------------------|--------------|--------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|----------------------------------------------------------------------------------------|-----------------|---------------------------------------------------------|
| <b>1972</b>  | 18:21                                                                                   | <b>2002</b>  | 26:13                                                                                                                                      | 181:19 182:15                                | <b>221</b>                                                                             | 3:8             |                                                         |
| <b>1976</b>  | 19:7                                                                                    | <b>20046</b> | 2:5                                                                                                                                        | 184:9 218:15                                 | <b>225,000</b>                                                                         | 29:20           |                                                         |
| <b>1980</b>  | 18:9                                                                                    | <b>2007</b>  | 22:18                                                                                                                                      | 219:6                                        | <b>227</b>                                                                             | 151:21          |                                                         |
| <b>1983</b>  | 91:4,16<br>198:23                                                                       |              | 23:10 25:19                                                                                                                                | <b>2022</b>                                  | 52:16,20                                                                               | <b>228</b>      | 187:15                                                  |
| <b>1991</b>  | 30:19                                                                                   | <b>2011</b>  | 40:12                                                                                                                                      | 52:21 54:11                                  | <b>229</b>                                                                             | 90:14           |                                                         |
| <b>1997</b>  | 26:13                                                                                   | <b>2012</b>  | 40:12,13<br>41:6                                                                                                                           | 60:1 67:22<br>68:5 69:17,24                  | <b>22nd</b>                                                                            | 71:10           |                                                         |
| <b>1:10</b>  | 126:21                                                                                  | <b>2013</b>  | 22:18<br>23:10 139:9                                                                                                                       | 70:24 73:25<br>74:10 78:16                   | <b>231</b>                                                                             | 91:10           |                                                         |
| <b>2</b>     |                                                                                         | <b>2015</b>  | 34:1,3<br>39:14 92:9,11<br>92:19                                                                                                           | 79:3 81:10,14<br>82:16 84:4,22<br>85:5 87:21 | <b>24</b>                                                                              | 66:7            |                                                         |
| <b>2</b>     | 3:2 4:4 47:6<br>47:14,19 48:1<br>58:18 119:10<br>218:19                                 | <b>2016</b>  | 107:3                                                                                                                                      | 92:10,25 97:8                                | <b>25</b>                                                                              | 69:17 71:1      |                                                         |
| <b>2.3</b>   | 116:12<br>117:4,5,10,12<br>117:13,22<br>118:4,16,22<br>121:7                            | <b>2017</b>  | 56:13                                                                                                                                      | 182:6 185:6                                  | <b>27</b>                                                                              | 166:13<br>171:4 |                                                         |
| <b>2.71</b>  | 121:7                                                                                   | <b>2018</b>  | 37:18<br>121:8 123:3,3                                                                                                                     | 195:12 206:7<br>213:5 216:6                  | <b>28</b>                                                                              | 149:21          |                                                         |
| <b>2.71.</b> | 121:10                                                                                  | <b>2019</b>  | 37:20<br>56:14 58:15,18<br>65:22 66:7                                                                                                      | <b>2023</b>                                  | 66:6,7                                                                                 | <b>28th</b>     | 166:6                                                   |
| <b>2.83</b>  | 121:9                                                                                   |              | 92:9,13,19,25<br>121:9 123:16                                                                                                              | <b>2024</b>                                  | 173:7                                                                                  | <b>29</b>       | 152:9 178:8                                             |
| <b>2.83.</b> | 121:7                                                                                   | <b>2020</b>  | 66:6 68:7<br>115:23 119:18<br>123:3,17<br>217:11,23                                                                                        | <b>2025</b>                                  | 1:14 6:2                                                                               | <b>29th</b>     | 179:7                                                   |
| <b>20</b>    | 26:23 44:1<br>64:8 124:16<br>127:9,13<br>145:18 156:25<br>158:3 224:16<br>225:22 226:22 | <b>2021</b>  | 52:16<br>58:15 59:18,25<br>67:21 68:5,7<br>81:9,13 82:15<br>84:4,21 120:16<br>121:13 137:12<br>137:16 144:5<br>149:12,21<br>166:6,13 178:8 | <b>21</b>                                    | 192:8<br>218:23                                                                        | <b>2:00</b>     | 75:25                                                   |
| <b>200</b>   | 13:16<br>107:16 111:2<br>188:8                                                          |              | <b>216-523-1313</b>                                                                                                                        | <b>216</b>                                   | 3:6                                                                                    | <b>2:12</b>     | 126:24                                                  |
| <b>2001</b>  | 25:19                                                                                   | <b>2022</b>  | 223:3<br>3:7<br>59:18 70:5                                                                                                                 | <b>22</b>                                    | 223:3<br>70:24 71:13<br>72:11 73:25<br>85:3 87:2,3<br>171:1,3 179:11<br>182:5,16 195:6 | <b>2:23</b>     | 1:7 6:6                                                 |
|              |                                                                                         |              |                                                                                                                                            |                                              |                                                                                        | <b>2s</b>       | 121:11 125:5                                            |
|              |                                                                                         |              |                                                                                                                                            |                                              |                                                                                        | <b>3</b>        |                                                         |
|              |                                                                                         |              |                                                                                                                                            |                                              |                                                                                        | <b>3</b>        | 4:6 54:21<br>55:3,7 56:19<br>57:1 119:7<br>173:7 174:18 |
|              |                                                                                         |              |                                                                                                                                            |                                              |                                                                                        | <b>30</b>       | 93:23<br>152:13 157:1                                   |
|              |                                                                                         |              |                                                                                                                                            |                                              |                                                                                        | <b>300</b>      | 127:5,18<br>128:11                                      |
|              |                                                                                         |              |                                                                                                                                            |                                              |                                                                                        | <b>31</b>       | 56:14 58:15                                             |
|              |                                                                                         |              |                                                                                                                                            |                                              |                                                                                        | <b>3100</b>     | 116:3,25                                                |
|              |                                                                                         |              |                                                                                                                                            |                                              |                                                                                        | <b>3200</b>     | 116:7,25<br>120:22                                      |

[3632 - absolutely]

Page 3

|                                                                 |                        |                        |                       |
|-----------------------------------------------------------------|------------------------|------------------------|-----------------------|
| <b>3632</b> 116:15                                              | 200:19                 | <b>7</b>               | <b>9/11</b> 26:19     |
| <b>3:19</b> 177:8                                               | <b>47</b> 4:4          | <b>7</b> 3:6 4:14 38:7 | <b>90</b> 10:1 24:19  |
| <b>3:26</b> 177:11                                              | <b>49th</b> 149:13     | 80:19 81:1,2,4         | 95:3                  |
| <b>4</b>                                                        | 153:10                 | 81:6 161:11            | <b>91</b> 30:23,25    |
| <b>4</b> 3:4 4:8 57:20<br>58:3,7 119:5                          | <b>4:16</b> 211:23     | 201:13 204:7,8         | 31:2                  |
| <b>4,000</b> 94:12                                              | <b>4:29</b> 212:1      | <b>7236</b> 5:5,6,9    | <b>911</b> 131:19     |
| <b>4.1</b> 116:2,16                                             | <b>4:38</b> 219:22,24  | 116:11 143:17          | 135:16                |
| <b>4.4</b> 116:8                                                | <b>5</b>               | 144:4 158:7            | <b>97</b> 17:24       |
| <b>4.5</b> 116:2                                                | <b>5</b> 4:10 59:6,13  | 164:18                 | <b>a</b>              |
| <b>4.6</b> 116:9                                                | 68:15,18,21            | <b>7279726</b> 223:7   | <b>a.m.</b> 1:15 6:3  |
| <b>4.6.</b> 116:16                                              | 71:23 90:1             | 224:2 225:2            | <b>ability</b> 188:25 |
| <b>4.9</b> 116:12<br>117:4,6 121:6                              | 158:3 187:1            | 226:2                  | 200:3                 |
| <b>4/1/2025</b> 223:8<br>224:3 225:3                            | 199:12,24              | <b>76</b> 18:21,22     | <b>able</b> 10:15     |
| <b>40</b> 36:23 38:8<br>149:19 153:12<br>154:12 157:1<br>158:20 | 212:9                  | <b>8</b>               | 11:24 33:18           |
| <b>40th</b> 154:2                                               | <b>5,000</b> 94:12     | <b>8</b> 4:16 88:1,6   | 38:12 44:17           |
| <b>41</b> 187:3,21<br>188:1 199:13<br>199:25 201:10             | <b>50</b> 93:24        | 89:6 151:21            | 52:24 85:18           |
| <b>42</b> 91:3,16<br>198:22                                     | <b>50,000</b> 22:3,5,6 | 186:1 187:16           | 133:3 151:16          |
| <b>44113</b> 2:11                                               | <b>54</b> 4:6          | 187:16,18              | 154:23 155:9          |
| <b>44114</b> 223:2                                              | <b>57</b> 4:8          | 198:12,17              | 156:25 158:3          |
| <b>44122</b> 2:5                                                | <b>59</b> 4:10         | 203:24 204:8           | 177:1 188:12          |
| <b>45</b> 153:12<br>198:13,18,20<br>198:23 199:6,9<br>199:10,22 | <b>6</b>               | 209:12,12              | 190:7                 |
|                                                                 | <b>6</b> 4:12 68:25    | 210:3                  | <b>abnormal</b>       |
|                                                                 | 69:7,12,15             | <b>80</b> 4:14 44:3    | 131:16                |
|                                                                 | 83:19 186:24           | 124:16 127:13          | <b>above</b> 108:23   |
|                                                                 | 198:11,16              | <b>800</b> 26:19       | 109:2,6 110:6         |
|                                                                 | 199:4,15 212:4         | <b>88</b> 4:16         | 112:23 117:14         |
|                                                                 | 212:8 216:6            | <b>9</b>               | 221:13,18             |
|                                                                 | 219:15                 | <b>9</b> 4:16 104:11   | 223:17                |
|                                                                 | <b>615</b> 1:18 2:11   | 104:17,20              | <b>absence</b> 30:1,9 |
|                                                                 | <b>68</b> 4:12         | 120:16 121:13          | 31:6                  |
|                                                                 |                        | 209:14                 | <b>absolutely</b>     |
|                                                                 |                        |                        | 118:23 152:25         |
|                                                                 |                        |                        | 156:4                 |

[abstain - ago]

Page 4

|                                                                                                |                                                                                                            |                                                                                     |                                                                                                                     |
|------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| <b>abstain</b> 176:22                                                                          | <b>accurately</b>                                                                                          | 56:23 71:19                                                                         | 118:13 125:21                                                                                                       |
| <b>academic</b> 82:6<br>90:25 115:24<br>117:9 188:7<br>198:25 200:12<br>212:14,17<br>215:15,21 | 105:10,12<br><b>accused</b> 172:9<br><b>achieve</b> 114:19<br><b>acknowledge</b><br>147:3 224:11<br>225:16 | 84:8 85:18<br>88:18 95:6<br>108:14 133:3<br>133:10 150:25<br>171:14,17<br>192:10,12 | <b>advice</b> 95:8<br>99:9 102:23<br>105:24,24<br><b>advise</b> 99:19<br><b>advisor</b> 46:22<br>46:23,24<br>106:16 |
| <b>academy</b> 32:5<br>33:2,6 157:23<br>159:7 208:5                                            | <b>acknowledged</b><br>64:10                                                                               | 141:4 198:9                                                                         | <b>affect</b> 10:24<br>156:15                                                                                       |
| <b>accelerated</b><br>20:24                                                                    | <b>acknowledging</b><br>38:25                                                                              | <b>additional</b><br>49:25                                                          | <b>affective</b><br>156:14                                                                                          |
| <b>accenture</b><br>26:14 31:19,22<br>43:23                                                    | <b>acknowledg...</b><br>80:5                                                                               | <b>address</b> 165:7<br>193:13 223:15                                               | <b>affects</b> 211:7                                                                                                |
| <b>acceptable</b><br>117:13 119:11<br>119:12                                                   | <b>acronym</b><br>109:16                                                                                   | <b>addressed</b><br>216:9                                                           | <b>affirm</b> 167:12                                                                                                |
| <b>accepting</b><br>170:18                                                                     | <b>act</b> 147:11<br>224:14 225:20                                                                         | <b>adjourned</b><br>219:24                                                          | <b>affirmation</b><br>38:25 39:5<br>167:9 202:25                                                                    |
| <b>accomplished</b><br>64:6                                                                    | <b>acted</b> 73:7                                                                                          | <b>adjournment</b><br>221:22                                                        | <b>affirming</b><br>147:2                                                                                           |
| <b>accordance</b><br>224:5 225:5                                                               | <b>acting</b> 167:3<br>180:6                                                                               | <b>administration</b><br>184:17                                                     | <b>affixed</b> 222:6<br>224:15 225:21                                                                               |
| <b>accredit</b> 160:17                                                                         | <b>action</b> 12:11,12<br>90:19,22 91:2                                                                    | <b>administrative</b><br>15:9 76:14                                                 | <b>aforsaid</b><br>221:12                                                                                           |
| <b>accreditation</b><br>160:18                                                                 | 91:13,20<br>185:18 198:21                                                                                  | 111:7 114:9                                                                         | <b>afterward</b><br>111:19                                                                                          |
| <b>accredited</b><br>45:15 160:22                                                              | 209:3 222:4                                                                                                | <b>administrator</b><br>99:14 200:10                                                | <b>ag's</b> 7:6 13:6                                                                                                |
| <b>accurate</b> 10:15<br>31:25 56:20<br>82:15 117:17<br>117:23 119:18<br>135:8 167:22          | <b>actions</b> 165:21<br><b>active</b> 31:2<br><b>activities</b><br>102:20 208:15<br>211:6                 | <b>admit</b> 37:9<br><b>admitted</b> 29:2<br>29:6                                   | <b>age</b> 6:22<br><b>aged</b> 110:9<br><b>aggressive</b><br>147:25 156:16                                          |
|                                                                                                | <b>actual</b> 142:10<br>149:17                                                                             | <b>adopted</b> 157:22<br><b>adopting</b> 149:2<br>207:18                            | <b>ago</b> 14:14,16,18<br>24:2 47:20<br>61:9 65:19                                                                  |
|                                                                                                | <b>actually</b> 29:25<br>40:20 43:21                                                                       | <b>advantage</b><br>117:25 118:3                                                    |                                                                                                                     |

## [agree - applications]

Page 5

|                    |                |                  |                     |                      |
|--------------------|----------------|------------------|---------------------|----------------------|
| <b>agree</b>       | 176:4          | <b>amazingly</b> | 42:21 46:9,12       | 118:1 139:23         |
| <b>agreed</b>      | 133:6          | 110:16           | 59:2 89:18          | 141:21 165:17        |
| <b>agreement</b>   | 37:6           | <b>amended</b>   | 98:7 114:21         | 166:17,21            |
|                    | 172:24 176:16  | 88:2,17,22       | 116:24 131:8        | 177:3 180:24         |
| <b>ahead</b>       | 46:8,14        | 89:12 198:22     | 174:24 184:25       | 187:11 196:9         |
|                    | 50:5 59:2 89:1 |                  | 185:1 187:6         | 198:15               |
|                    | 194:12 196:5   | 91:3,15 199:2    | 188:24 189:6        | <b>apologizing</b>   |
|                    | 203:20         | 215:16           | 189:14 190:4,8      | 167:24               |
| <b>ahold</b>       | 73:14          | <b>america</b>   | 190:9 194:12        | <b>apology</b>       |
|                    | 182:10         | <b>amount</b>    | 198:8 200:2         | 11:15                |
| <b>air</b>         | 188:11         | 128:15           | 201:4 203:20        | 45:9 156:22          |
| <b>airlines</b>    | 19:18          | <b>amplified</b> | 204:5,11 205:2      | 164:4 170:21         |
|                    | 20:9 29:9,22   | 106:1            | 209:8,13 213:1      | <b>apparently</b>    |
|                    | 30:5,18,24     | <b>angles</b>    | <b>answered</b>     | 30:24                |
|                    | 31:14          | 142:6            | 126:10 173:24       | <b>appear</b>        |
| <b>al</b>          | 1:8 6:6 223:6  | <b>anil</b>      | 194:11 203:19       | 56:19                |
|                    | 224:3 225:3    | 4:10,12,14       | <b>answering</b>    | 58:17 82:14          |
| <b>alert</b>       | 132:14         | 47:8 49:18       | 9:5                 | 224:11 225:15        |
| <b>allegation</b>  | 57:22 59:8     | 57:22 75:24      | 9:15 104:5          | <b>appearances</b>   |
|                    | 69:2           | 69:2 75:24       | 186:17 209:5        | 2:1 3:2              |
|                    | 76:1           | 76:1 79:6,18     | <b>answers</b>      | <b>appeared</b>      |
|                    | 199:5          | 80:21 89:23      | 7:15                | 85:20                |
| <b>allegations</b> | 91:24 188:1    | 96:4 98:20,23    | <b>antagonizing</b> | 131:1                |
|                    | 199:5          | 99:20 105:22     | 147:25              | <b>appears</b>       |
|                    | 187:3          | 191:5,23 223:6   | <b>anxious</b>      | 49:17                |
| <b>allegedly</b>   | 77:21          | 224:3 225:3      | 131:1               | 56:11,12 58:9        |
|                    | 205:10         | <b>anne</b>      | 210:16              | 58:13 59:23          |
| <b>alleging</b>    | 15:5           | 2:15             | <b>anybody</b>      | 81:9 89:7            |
|                    | 91:6           | 50:7             | 75:12               | 173:17 174:1         |
| <b>alliance</b>    | 139:2          | 81:7,10,23       | 84:11               | 175:19               |
|                    | 139:16         | 82:16 115:22     | <b>anymore</b>      | <b> appended</b>     |
| <b>allotted</b>    | 128:22         | 119:19 120:15    | 53:18               | 225:11,18            |
| <b>allowed</b>     | 65:8           | 217:10 218:15    | <b> anyway</b>      | <b> applicable</b>   |
|                    | 65:10 84:8     | <b>answer</b>    | 68:12               | 220:7                |
| <b>alternative</b> | 122:17         | 9:17,20          | 20:23,23            | <b> application</b>  |
|                    |                | 10:12,12 15:1    | 23:12 139:3         | <b> applications</b> |
|                    |                | 15:1 22:1 36:8   | <b> apologies</b>   | 39:20                |
|                    |                |                  | 37:1 61:16          | 213:17,21            |

**[applications - attention]**

Page 6

|                        |                       |                        |                        |
|------------------------|-----------------------|------------------------|------------------------|
| 214:2,7                | 78:25 86:22           | 150:20 157:24          | 225:2 226:2            |
| <b>applied</b> 206:21  | 213:21                | 163:20 178:20          | <b>assistance</b>      |
| 214:18,22              | <b>approximation</b>  | 183:25 189:3           | 127:15                 |
| 215:9                  | 22:10 208:14          | 190:5 194:11           | <b>assistant</b> 67:24 |
| <b>applies</b> 8:22    | <b>april</b> 1:14 6:2 | 199:4 200:23           | 99:18 102:6            |
| <b>apply</b> 65:7,8,10 | 58:18 59:18           | 201:6 203:19           | 125:15 127:17          |
| <b>applying</b> 207:7  | 87:1 115:23           | 203:25 212:20          | <b>associate</b> 69:20 |
| 214:19                 | 119:18 120:16         | 213:9,16               | 76:14 92:22            |
| <b>appointed</b>       | 121:13 217:11         | 217:13                 | 99:18,21,22,24         |
| 63:11                  | 218:23 219:6          | <b>asking</b> 7:13     | 204:25                 |
| <b>appointment</b>     | 222:8 223:4           | 8:11 9:5 20:6          | <b>association</b>     |
| 49:10 67:25            | <b>area</b> 13:24     | 48:9 56:3 57:5         | 31:8 39:22             |
| 69:21,23 70:4          | 25:14 27:25           | 78:2 83:5              | 40:5,18 139:5          |
| 179:4                  | <b>areas</b> 11:10    | 84:24 96:18            | <b>assume</b> 10:9     |
| <b>appreciate</b> 37:8 | 44:5                  | 106:20 145:25          | <b>assuming</b> 148:3  |
| 57:16 140:2            | <b>arena</b> 13:10    | 150:9 178:10           | <b>assurance</b>       |
| 213:14                 | 206:22                | 187:18 189:21          | 100:5 184:4            |
| <b>approach</b>        | <b>argument</b>       | 189:22                 | <b>assure</b> 186:21   |
| 142:2                  | 173:1                 | <b>asks</b> 201:13     | <b>assured</b> 135:14  |
| <b>appropriate</b>     | <b>arm</b> 39:3       | <b>assert</b> 175:20   | <b>attached</b> 225:7  |
| 39:2,2 49:24           | <b>arrangement</b>    | <b>asserting</b> 174:4 | <b>attachment</b>      |
| 112:14,25              | 31:3                  | <b>assessment</b>      | 4:23 133:24            |
| 124:6 153:5            | <b>aside</b> 45:14    | 111:10                 | <b>attempt</b> 84:2    |
| 170:17                 | 107:25 142:1          | <b>assets</b> 107:9    | 125:6,10               |
| <b>approve</b> 128:20  | <b>asked</b> 27:18    | <b>assign</b> 133:8    | <b>attempted</b> 84:1  |
| 129:6,7 161:2          | 30:8 34:22            | 136:22                 | <b>attempting</b>      |
| <b>approved</b> 35:4   | 35:7 39:16            | <b>assigned</b> 35:16  | 68:2                   |
| 45:15 137:14           | 60:12 70:7            | 128:10 129:14          | <b>attempts</b> 206:9  |
| 160:4,5,7,23           | 71:18 76:25           | 130:4,10               | <b>attend</b> 18:3,19  |
| 161:14                 | 79:5,12 99:6          | 133:10,16              | <b>attended</b> 17:11  |
| <b>approximate</b>     | 102:21 103:24         | 136:7,12               | <b>attending</b> 19:2  |
| 33:18                  | 107:14 112:2          | 137:13                 | <b>attention</b> 43:16 |
| <b>approximately</b>   | 124:11,13             | <b>assignment</b>      | 119:13                 |
| 6:3 14:15              | 126:9 139:4           | 128:17 224:2           |                        |

[attentive - behavior]

Page 7

|                      |                                   |                   |                                                      |                                                      |                                          |
|----------------------|-----------------------------------|-------------------|------------------------------------------------------|------------------------------------------------------|------------------------------------------|
| <b>attentive</b>     | 180:9<br>180:13                   | <b>average</b>    | 108:24<br>109:2,6 110:6                              | 151:20 153:22<br>154:1 165:13                        | 202:4                                    |
| <b>attorney</b>      | 2:9<br>12:4,18 21:3<br>222:2      |                   | 112:24 117:15<br>119:9                               | 169:2 170:4<br>172:21 174:5                          | <b>bases</b> 187:3<br>199:5              |
| <b>attorneys</b>     | 9:7                               | <b>avoided</b>    | 193:7                                                | 174:22 175:1                                         | <b>basically</b> 53:17<br>71:25 86:5     |
| <b>attract</b>       | 50:13                             | <b>award</b>      | 100:14<br>107:21 111:1                               | 176:19 177:10<br>180:2,11,22                         | 100:17 115:17<br>164:10 181:12           |
| <b>atypical</b>      | 121:12                            |                   | 113:11                                               | 211:25 212:3                                         | 184:1                                    |
| <b>au21</b>          | 5:9<br>164:18                     | <b>awarded</b>    | 82:5                                                 | 219:14 223:15                                        | <b>basis</b> 204:16                      |
| <b>audience</b>      | 117:2<br>149:5,11<br>153:16       | <b>aware</b>      | 88:24<br>95:13 101:15<br>102:11,24<br>112:4 114:23   | <b>background</b><br>7:7 8:3                         | <b>bates</b> 4:5,7,9,11<br>4:13,15,17,19 |
| <b>audiences</b>     | 157:25 159:6                      |                   | 145:4 182:22<br>188:15 197:9                         | <b>backgrounds</b><br>129:25 140:6                   | 4:21,23 5:4,9                            |
| <b>august</b>        | 34:2<br>56:14 58:15<br>59:25 60:1 |                   | 200:11 210:14<br>215:12,18                           | <b>backyard</b><br>130:21,25<br>131:13               | 5:12 47:9                                |
| <b>authentic</b>     | 58:18                             | <b>b</b>          |                                                      | <b>bad</b> 146:22                                    | 54:23 57:2,9                             |
| <b>authenticates</b> | 57:13                             | <b>b</b>          | 2:9 193:16<br>201:10 220:12                          | <b>badly</b> 181:1,3<br>196:12                       | 57:22 59:8                               |
| <b>authenticity</b>  | 57:8                              |                   | <b>ba3630</b> 120:24                                 | <b>bag</b> 158:4                                     | 69:2 80:21                               |
| <b>authoring</b>     | 216:21                            |                   | <b>ba3632</b> 120:23                                 | <b>balance</b> 167:8                                 | 104:13 115:5                             |
| <b>authority</b>     | 197:10                            | <b>bachelor's</b> | 18:24                                                | <b>bankruptcy</b><br>15:13                           | 120:1 133:25                             |
| <b>authorize</b>     | 225:11                            |                   | <b>back</b> 5:4 22:13<br>24:17,21 26:2<br>30:13 31:9 | <b>base</b> 81:14,17<br>81:25 178:23<br>188:1 200:19 | 137:22 164:19                            |
| <b>available</b>     | 64:12<br>159:2 174:9              |                   | 48:16 61:8<br>74:5 82:23                             | <b>based</b> 30:6<br>33:16 51:18                     | 177:16 178:1                             |
| <b>ave</b>           | 223:1                             |                   | 84:21 94:4,19<br>107:2 126:23                        | 91:23 108:9,21<br>124:20,21                          | <b>battelle</b> 22:14                    |
| <b>avenue</b>        | 1:18<br>2:11                      |                   | 136:2 137:22<br>143:8 144:25                         | 141:8 142:11<br>142:16 144:14                        | 24:19 25:5                               |
|                      |                                   |                   |                                                      | 150:6 175:18<br>194:4 196:19                         | 26:6 39:24,25                            |
|                      |                                   |                   |                                                      |                                                      | <b>bd</b> 32:14                          |
|                      |                                   |                   |                                                      |                                                      | <b>began</b> 123:17                      |
|                      |                                   |                   |                                                      |                                                      | <b>beginning</b> 67:3<br>83:2            |
|                      |                                   |                   |                                                      |                                                      | <b>behalf</b> 2:2,8<br>6:14 12:17        |
|                      |                                   |                   |                                                      |                                                      | 13:5                                     |
|                      |                                   |                   |                                                      |                                                      | <b>behavior</b> 11:17<br>17:18 27:14     |
|                      |                                   |                   |                                                      |                                                      | 67:18 70:9                               |
|                      |                                   |                   |                                                      |                                                      | 72:16,16,23                              |

**[behavior - brand]**

Page 8

|                        |                         |                       |                        |
|------------------------|-------------------------|-----------------------|------------------------|
| 131:16,23              | 182:14 191:15           | 196:16,22             | 145:17 166:25          |
| 156:17 162:21          | 191:16,23               | 197:9 198:9           | 171:2,8,9              |
| 165:9                  | 195:8 196:3             | <b>billing</b> 67:11  | 181:19 182:1,2         |
| <b>behaviors</b>       | 204:5,13                | <b>bills</b> 211:3    | 182:12 191:23          |
| 180:10                 | <b>benefit</b> 40:21    | <b>bit</b> 9:10 33:17 | 217:11                 |
| <b>belief</b> 190:21   | 40:22 131:23            | 94:10 109:11          | <b>bold</b> 217:25     |
| <b>believe</b> 17:7    | <b>bennett</b> 89:23    | 146:25 166:23         | <b>book</b> 136:22     |
| 24:15 61:12            | 204:16 205:9            | 170:8 183:25          | 137:1,2,4,7,12         |
| 62:7 70:5 82:7         | 216:15                  | 209:19                | 138:3,10               |
| 89:20 96:4,17          | <b>bercian</b> 2:16     | <b>blabbing</b> 74:24 | <b>books</b> 31:8 64:7 |
| 99:20 103:14           | <b>berry</b> 4:5 47:9   | <b>black</b> 106:12   | <b>boss</b> 92:25      |
| 104:4 155:7            | <b>best</b> 14:1 15:20  | 106:14                | 119:14 122:5           |
| 157:13 189:10          | 79:14 86:3              | <b>blah</b> 49:10,10  | 124:23 146:23          |
| 198:8 201:23           | 98:8 111:4,5,8          | 49:10 94:3,3,3        | 148:19,21              |
| 202:16 212:16          | 141:9 167:18            | 101:3,3,3             | 205:2                  |
| 215:14,20              | 185:2 188:13            | <b>blank</b> 79:5     | <b>bottom</b> 17:9     |
| 219:15                 | 188:25 190:20           | <b>blended</b> 142:17 | 55:10 58:11            |
| <b>believed</b> 219:2  | 200:2 201:3             | <b>bless</b> 90:16    | 59:21 81:12            |
| <b>believes</b> 201:15 | 213:1                   | <b>blessed</b> 210:20 | 110:5 117:14           |
| <b>bell</b> 184:21     | <b>bet</b> 70:12        | <b>blue</b> 183:13    | 140:5 159:12           |
| <b>beloved</b> 74:14   | <b>better</b> 31:20,23  | <b>board</b> 60:15,20 | 168:17 178:4           |
| <b>ben</b> 34:8 39:14  | 79:24 153:25            | 148:22 154:25         | 178:19                 |
| 41:9,11 42:19          | 204:1,3,17              | <b>bob</b> 60:12,17   | <b>boundaries</b>      |
| 43:10 45:19            | <b>beware</b> 167:1     | 62:10,11 65:20        | 44:21                  |
| 50:9 53:23             | <b>beyond</b> 48:22     | 65:24 70:5,13         | <b>boy</b> 169:20      |
| 54:17 64:8,24          | 48:22 49:2,12           | 71:15,15 92:24        | <b>boyatzis</b> 27:15  |
| 64:25 65:11            | 122:16 138:13           | 92:24 93:2            | <b>boyfriend</b>       |
| 75:24,25 76:7          | 166:1 218:1,7           | 96:4 109:4            | 146:20                 |
| 83:21 92:5,17          | 218:24 219:3            | 112:10 113:25         | <b>boys</b> 110:12     |
| 96:2,13 97:10          | <b>big</b> 26:5 111:1   | 118:6,7,13            | <b>brainstorm</b>      |
| 99:20 100:19           | 155:25 169:20           | 124:7,22 125:4        | 151:3                  |
| 107:21 109:2           | <b>bigger</b> 53:3      | 128:6,20 129:4        | <b>brand</b> 74:19     |
| 111:14 112:3           | <b>bill</b> 85:22 86:18 | 129:20 132:18         | 100:23 106:5           |
| 114:1 124:13           | 86:23 104:2             | 133:3,19              |                        |

## [branding - capability]

Page 9

|                 |          |                       |                       |                       |
|-----------------|----------|-----------------------|-----------------------|-----------------------|
| <b>branding</b> | 107:9    | 156:10 159:18         | 146:16,21             | 185:15,16             |
| <b>break</b>    | 10:2,3   | 161:18 162:7,9        | 200:17 206:23         | 192:17 205:3          |
| 80:14           | 82:19    | 162:19 166:12         | 208:5,22              | <b>called</b> 6:22    |
| 125:3           | 142:21   | 166:18 169:9          | 215:14                | 43:18 63:25           |
| 171:17          | 175:2    | 170:24 181:12         | <b>businesses</b>     | 71:17 83:3            |
| 211:11          | 213:17   | 183:11 185:6          | 35:12                 | 102:20 109:12         |
| <b>breakout</b> | 9:24     | 188:20 190:2          | <b>busmhr</b> 5:5,6,9 | 110:18 131:19         |
| <b>breaks</b>   | 10:1     | 191:21 192:24         | 143:17 158:7          | 131:24 132:7          |
| <b>breakup</b>  |          | 194:5,10              | 164:18                | 135:16 137:8          |
| 146:20          |          | 195:10 196:20         | <b>busy</b> 32:14     | 142:17 145:17         |
| <b>brief</b>    | 56:25    | 202:9,13 203:9        | 79:18                 | 157:4,22              |
| 67:10           | 85:19    | 203:15                | <b>buy</b> 31:22      | 163:10 164:13         |
| 179:23          | 183:15   | <b>bumped</b> 124:16  | <b>buyout</b> 27:3    | 170:17 179:5,6        |
| <b>briefing</b> | 176:22   | <b>bunch</b> 66:16    | <b>c</b>              | 192:16                |
| <b>briefly</b>  | 10:19    | 106:18 152:17         | <b>c</b> 187:5 194:3  | <b>calling</b> 134:23 |
| <b>bring</b>    | 45:3,11  | 200:8                 | 199:13                | 134:23 179:12         |
| 147:3           | 153:6    | <b>burden</b> 210:19  | <b>ca</b> 223:25      | 183:21 211:14         |
| 163:18          |          | 211:1                 | <b>calibrate</b>      | <b>calls</b> 201:2    |
| <b>broke</b>    | 46:21    | <b>burdensome</b>     | 156:21                | 209:5                 |
| <b>brought</b>  | 34:25    | 211:4                 | <b>calibrating</b>    | <b>campus</b> 53:4    |
| 38:2            | 91:20    | <b>business</b> 13:18 | 149:4                 | <b>campuses</b> 38:3  |
| <b>bucks</b>    | 208:18   | 13:24 14:8,9          | <b>call</b> 54:16     | <b>canceled</b> 67:9  |
| <b>buddy</b>    | 151:2    | 18:6 19:19,25         | 70:21,23 71:15        | <b>candidate</b>      |
| <b>build</b>    | 147:9,11 | 20:15,25 23:16        | 71:16 72:1,1          | 129:22 130:17         |
| 206:24          |          | 24:20 29:14,19        | 72:10 73:16,16        | 130:21 135:25         |
| <b>building</b> | 1:17     | 32:9,14 34:20         | 73:20 75:22           | <b>candidates</b>     |
| 84:5            | 100:23   | 35:11,17 38:13        | 85:19 88:23           | 128:20,24             |
| 106:5,6         | 147:16   | 40:1 41:5,17          | 102:21 131:11         | 129:8,18,19           |
| <b>built</b>    | 44:2     | 64:2,5 101:9          | 147:20 179:11         | 130:16                |
| <b>bulger</b>   | 147:22   | 101:17,22             | 179:13,14             | <b>canvas</b> 164:14  |
| 148:2           | 149:23   | 102:3,6,13            | 181:13 183:12         | <b>cap</b> 127:12     |
| 150:8,14        | 151:8    | 106:2,7,18            | 183:15 184:2,7        | <b>capability</b>     |
| 152:10,15,15    |          | 112:8 116:8,15        | 184:14 185:9          | 118:11                |
| 154:12          | 156:5    | 120:23 121:23         |                       |                       |

## [capacities - civil]

Page 10

|                   |                                                                                                                                                                                             |                                        |                                                |                                                |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|------------------------------------------------|------------------------------------------------|
| <b>capacities</b> | 85:14<br>13:17 23:1                                                                                                                                                                         | <b>catch</b> 85:14<br>209:25 210:7     | <b>certify</b> 221:8,19<br>222:1               | <b>channel</b> 164:11                          |
| <b>capacity</b>   | 20:12<br>29:18,19 43:24<br>99:11 138:13                                                                                                                                                     | <b>categories</b> 23:7<br>63:19        | <b>cetera</b> 32:16                            | <b>character</b><br>203:7                      |
| <b>capped</b>     | 127:10                                                                                                                                                                                      | <b>category</b> 56:9<br>112:19         | <b>chain</b> 178:4<br>180:22                   | <b>charge</b> 29:18                            |
| <b>caption</b>    | 221:21                                                                                                                                                                                      | <b>catholic</b> 203:6                  | <b>chair</b> 41:13                             | <b>charged</b> 11:16<br>36:19 76:10            |
| <b>care</b>       | 190:6<br>193:9 195:22                                                                                                                                                                       | <b>caught</b> 176:7                    | 60:14 62:13<br>65:21,25 92:12                  | 144:23 195:13<br>195:19                        |
| <b>cared</b>      | 165:25                                                                                                                                                                                      | <b>cause</b> 90:19,22<br>91:2,12,20,20 | 92:15,18,24<br>95:17 96:5                      | <b>charges</b> 15:9                            |
| <b>career</b>     | 19:3<br>25:24 93:23<br>95:8                                                                                                                                                                 | 198:21 221:12                          | 111:19 124:7<br>160:17                         | <b>chart</b> 81:13                             |
| <b>careful</b>    | 149:8                                                                                                                                                                                       | <b>caused</b> 212:17                   | <b>chair's</b> 67:8                            | <b>chastised</b> 67:23                         |
| <b>carefully</b>  | 145:11                                                                                                                                                                                      | <b>cc</b> 216:12                       | <b>chairs</b> 113:21                           | <b>check</b> 171:13<br>179:13 183:21<br>192:18 |
| <b>carry</b>      | 72:8                                                                                                                                                                                        | 219:16                                 | <b>challenge</b><br>204:19                     | <b>checked</b> 132:3                           |
| <b>carrying</b>   | 108:3                                                                                                                                                                                       | <b>cc'd</b> 216:21                     | <b>challenged</b><br>76:17 77:15               | <b>chicago</b> 30:5,6                          |
| <b>case</b>       | 1:7 6:6<br>17:11,15,16<br>27:8 28:25<br>29:9 30:4,23<br>36:22 49:21<br>57:8 89:8,16<br>90:4 128:8<br>133:14 136:24<br>146:14 165:22<br>194:23 206:17<br>207:8 214:8<br>223:6 224:3<br>225:3 | <b>celebration</b><br>67:12            | <b>challenges</b><br>99:12 139:21              | <b>chief</b> 22:19                             |
| <b>cases</b>      | 37:5<br>101:1 149:1                                                                                                                                                                         | <b>cell</b> 152:16                     | <b>challenging</b><br>57:7 202:22<br>205:16,22 | <b>child</b> 124:12                            |
|                   |                                                                                                                                                                                             | <b>central</b> 101:11                  | <b>chance</b> 173:14                           | <b>choice</b> 153:5                            |
|                   |                                                                                                                                                                                             | 102:5 106:7                            | <b>change</b> 23:13                            | <b>choices</b> 154:25                          |
|                   |                                                                                                                                                                                             | <b>ceremonial</b><br>100:24            | 136:4 223:13<br>223:14 225:8                   | <b>choose</b> 150:13                           |
|                   |                                                                                                                                                                                             | <b>certain</b> 43:3                    | 226:3                                          | <b>chose</b> 193:25                            |
|                   |                                                                                                                                                                                             | 49:1 128:15                            | <b>changed</b> 41:19                           | <b>circles</b> 43:1<br>106:7                   |
|                   |                                                                                                                                                                                             | 135:22 142:13                          | 149:19 154:7                                   | <b>circular</b> 153:15                         |
|                   |                                                                                                                                                                                             | 145:5 147:6                            | <b>changes</b> 144:6                           | <b>circumstance</b><br>130:17 133:2            |
|                   |                                                                                                                                                                                             | 149:5                                  | 223:12 224:7                                   | <b>circumstances</b><br>132:12 210:23          |
|                   |                                                                                                                                                                                             | <b>certificate</b> 3:8                 | 225:7,9                                        | <b>cite</b> 199:21                             |
|                   |                                                                                                                                                                                             | 221:1 225:11                           |                                                | <b>civil</b> 6:24 12:11<br>220:3,7 224:5       |
|                   |                                                                                                                                                                                             | <b>certification</b><br>224:1 225:1    |                                                |                                                |
|                   |                                                                                                                                                                                             | <b>certified</b> 6:25                  |                                                |                                                |

[civil - coming]

Page 11

|                      |                        |                        |                        |
|----------------------|------------------------|------------------------|------------------------|
| 225:5                | 178:13,17,22           | <b>clinic</b> 170:11   | 101:16,21              |
| <b>claim</b> 90:22   | 179:16 181:9           | <b>clinical</b> 28:11  | 102:3,13 105:7         |
| <b>claims</b> 163:8  | 183:22 185:24          | 61:11,14 63:8          | 105:16 106:9           |
| 208:23               | 192:19 193:20          | 64:1,16 74:3           | 110:8 132:15           |
| <b>clarification</b> | 193:23 195:1           | <b>close</b> 54:8 59:4 | 208:22 215:13          |
| 57:16 75:20          | 196:8,14 202:1         | 64:17 96:15            | <b>colleges</b> 35:8,9 |
| 141:23               | 204:19 205:6           | 155:20 211:11          | 35:12,20               |
| <b>clarify</b> 9:22  | 205:15 218:10          | <b>closed</b> 24:23    | 101:13                 |
| 63:9 203:8           | <b>classes</b> 46:19   | 67:13 125:13           | <b>colon</b> 90:10     |
| <b>clarity</b> 41:24 | 46:20,21               | <b>closely</b> 100:9   | <b>colored</b> 94:9,10 |
| <b>class</b> 36:23   | 114:19 120:14          | 100:11                 | <b>columbus</b>        |
| 68:11 70:19          | 127:7,16,18            | <b>closer</b> 146:19   | 106:1 207:4            |
| 72:2,17,18           | 143:8,11 164:6         | <b>club</b> 46:23,24   | 210:24,25              |
| 73:8 76:19           | 170:13 180:3           | 106:12,14              | <b>combining</b> 28:8  |
| 77:8,18 79:11        | 188:12                 | <b>coach</b> 99:11     | <b>come</b> 20:9 31:9  |
| 80:6,8 87:13         | <b>classic</b> 70:13   | <b>coaching</b> 21:2   | 32:23 39:16            |
| 87:14 96:20          | <b>classroom</b> 70:9  | 32:10,13,20            | 46:1 50:13             |
| 108:15 117:5,6       | 73:22 76:12            | 119:13 172:9           | 61:8 63:18             |
| 120:14 127:20        | 102:20 115:19          | 207:2 208:3,7          | 96:23 98:13            |
| 133:15 136:23        | 166:2 170:10           | 211:15                 | 100:25 107:17          |
| 142:16 144:9         | 192:6 193:19           | <b>cockpit</b> 155:12  | 107:24 113:6           |
| 144:12 145:14        | <b>clause</b> 105:9    | 155:19                 | 130:21 148:15          |
| 145:15 148:7         | <b>clean</b> 9:7       | <b>coffee</b> 93:13    | 159:8 167:19           |
| 149:22,25            | <b>clear</b> 21:5 49:1 | <b>cognitive</b>       | 170:1 172:6            |
| 152:21 153:8         | 50:9 173:15            | 140:17                 | 175:1 177:1            |
| 153:11,14,15         | 174:7 177:1            | <b>colleagues</b>      | <b>comes</b> 198:12    |
| 154:17 156:2         | <b>cleveland</b> 1:18  | 66:14,23 93:17         | 198:17                 |
| 156:10,12            | 2:11 28:21             | 96:16 112:22           | <b>comfortable</b>     |
| 157:21 162:11        | 32:5 207:3             | 113:4 196:12           | 83:14                  |
| 162:11,13,15         | 222:7 223:2            | <b>college</b> 13:18   | <b>coming</b> 26:24    |
| 162:16 163:3         | <b>client</b> 13:12    | 13:24 19:7             | 32:19 73:13            |
| 163:24,25            | 37:23 173:17           | 34:20 35:11,17         | 108:15 133:15          |
| 166:11,23            | <b>clients</b> 53:2    | 40:1 41:5,16           | 143:8 166:23           |
| 171:15 178:11        |                        | 99:2 100:2             | 168:5 169:6,7          |

[coming - connect]

Page 12

|                       |                       |                       |                        |
|-----------------------|-----------------------|-----------------------|------------------------|
| 180:10                | <b>companies</b>      | <b>complementary</b>  | <b>conclusions</b>     |
| <b>comment</b> 49:25  | 44:19 102:21          | 137:3                 | 88:23 201:2            |
| 169:19 172:13         | 102:25 122:11         | <b>complete</b> 9:20  | <b>concrete</b> 94:20  |
| <b>commented</b>      | <b>company</b>        | 10:15                 | <b>conditions</b> 11:3 |
| 87:14                 | 137:10 147:14         | <b>completed</b>      | 138:12 210:15          |
| <b>comments</b>       | <b>compare</b>        | 221:22 223:15         | <b>conduct</b> 196:19  |
| 118:16                | 114:10                | <b>completing</b>     | 209:18                 |
| <b>commission</b>     | <b>compared</b>       | 68:9                  | <b>conference</b>      |
| 222:17 224:19         | 208:15                | <b>complex</b>        | 106:17,23              |
| 225:25 226:25         | <b>comparing</b>      | 124:18                | 107:18 175:1           |
| <b>commissioned</b>   | 74:5                  | <b>complies</b> 90:17 | <b>confidence</b>      |
| 221:8                 | <b>compensated</b>    | 91:11 198:19          | 54:9 147:9,17          |
| <b>committees</b>     | 51:7                  | <b>compound</b>       | 151:15                 |
| 105:8,17,19           | <b>compensation</b>   | 187:7                 | <b>confident</b> 147:7 |
| 106:9,25              | 51:10 81:7,8          | <b>concept</b> 144:25 | 147:19                 |
| 107:25 200:15         | 81:10,17,23           | 156:25                | <b>confirm</b> 11:24   |
| <b>common</b> 83:11   | 82:5,16 200:15        | <b>concepts</b> 99:10 | 49:14 134:8            |
| 188:6 190:23          | <b>competence</b>     | 138:15 142:11         | <b>confirmed</b>       |
| 190:23                | 147:9,12,17           | 142:12                | 135:24                 |
| <b>communicate</b>    | 151:15                | <b>concern</b> 19:20  | <b>confirming</b>      |
| 85:16 154:19          | <b>competency</b>     | 117:12                | 48:3                   |
| 164:5                 | 140:25 149:10         | <b>concerned</b>      | <b>conflict</b> 37:3   |
| <b>communicated</b>   | <b>complain</b> 93:24 | 25:25 61:3            | 66:17,22               |
| 65:9                  | <b>complained</b>     | 162:20 181:4          | 139:21                 |
| <b>communicating</b>  | 205:18                | <b>concerning</b>     | <b>conflicts</b>       |
| 35:24                 | <b>complaint</b> 4:16 | 121:11 181:9          | 144:16                 |
| <b>communication</b>  | 15:5 77:22            | <b>concerns</b>       | <b>confusing</b>       |
| 63:4 113:25           | 78:5 88:2,22          | 121:15 184:18         | 42:11                  |
| 133:18 164:7          | 89:12,15 91:21        | 200:11                | <b>confusion</b>       |
| 164:13 185:15         | 147:23 163:13         | <b>conclude</b>       | 177:3                  |
| <b>communicati...</b> | 186:4 187:4,15        | 216:25                | <b>congratulations</b> |
| 27:19 173:3           | 198:17 199:6          | <b>conclusion</b>     | 15:22,24               |
| <b>community</b>      | 200:19 201:1          | 209:7                 | <b>connect</b> 165:15  |
| 106:2                 | 205:9 206:2           |                       |                        |

**[connected - conversations]**

Page 13

|                       |                       |                        |                       |
|-----------------------|-----------------------|------------------------|-----------------------|
| <b>connected</b>      | 43:19,21 44:6         | 181:18                 | 79:15 80:11           |
| 30:12                 | 46:24 55:22           | <b>contract</b>        | 84:14 86:23           |
| <b>connecting</b>     | 102:22,25             | 48:17,23 56:5          | 87:13 93:14           |
| 140:5,15              | 107:6 120:24          | 62:6,24 70:7           | 99:10 104:7           |
| <b>connection</b>     | 121:24 122:21         | 95:16 97:17            | 141:8 155:16          |
| 28:24                 | 127:13 207:21         | 194:6 206:18           | 155:18 170:3          |
| <b>connections</b>    | <b>contact</b> 83:25  | 214:9                  | 171:14 178:12         |
| 204:25                | 84:2 118:13           | <b>contracted</b>      | 179:23,23             |
| <b>consequences</b>   | 125:10 182:15         | 139:11,13              | 180:17 181:7          |
| 185:23                | <b>contacts</b> 32:16 | <b>contraction</b>     | 183:24 185:5,8        |
| <b>consider</b>       | <b>contain</b> 217:20 | 24:18                  | 188:16 195:1          |
| 13:25                 | <b>contend</b> 202:10 | <b>contractor</b>      | 197:21 205:5          |
| 117:17 132:10         | 203:15 204:1          | 206:17 207:12          | 213:3                 |
| 132:12 186:20         | <b>contending</b>     | 207:13                 | <b>conversational</b> |
| 215:2                 | 203:10                | <b>contractors</b>     | 41:2                  |
| <b>considered</b>     | <b>contends</b>       | 21:20,21               | <b>conversations</b>  |
| 42:25 74:14           | 201:19                | <b>contracts</b> 60:15 | 5:5,7 11:7            |
| 111:3 119:5,8         | <b>content</b> 13:20  | 60:18 197:11           | 34:25 35:25           |
| 119:11 215:3,5        | 35:3 38:9,16          | <b>contractual</b>     | 37:12 44:25           |
| <b>considering</b>    | 38:21 39:6            | 51:14 188:4            | 45:6 70:19            |
| 149:2                 | 45:16 91:1,16         | <b>contractually</b>   | 73:12 83:18           |
| <b>consistent</b>     | 114:7 144:15          | 55:25                  | 84:16 86:16           |
| 8:16                  | 150:1 160:6,7         | <b>contribute</b>      | 116:12,23             |
| <b>constitutional</b> | 161:8,10 164:1        | 218:8 219:6            | 118:17 120:22         |
| 188:3 189:12          | 196:21 199:1          | <b>control</b> 122:16  | 127:12 137:7          |
| 189:17,25             | 201:18 202:23         | 155:11,13              | 139:18,18             |
| <b>constructive</b>   | <b>contest</b> 218:8  | <b>controversial</b>   | 141:19,21             |
| 74:18 112:25          | 219:7                 | 174:6                  | 143:1,13,18           |
| <b>constructively</b> | <b>context</b> 165:20 | <b>conversation</b>    | 149:15,17             |
| 28:18                 | 201:18                | 9:16 36:9,23           | 157:11 158:8          |
| <b>construe</b>       | <b>continue</b> 52:5  | 37:2 39:17             | 158:21 159:23         |
| 81:24                 | 72:7                  | 52:10 53:13,21         | 161:4,23              |
| <b>consultants</b>    | <b>continued</b> 5:1  | 54:13,19 64:8          | 169:11 172:15         |
| 26:19,22              | 92:12 117:18          | 65:5,17 76:3           | 173:9,11              |
| <b>consulting</b>     |                       |                        |                       |
| 14:7                  |                       |                        |                       |
| 20:25 21:11           |                       |                        |                       |
| 23:15 26:21           |                       |                        |                       |

**[conversations - created]**

Page 14

|                                    |                                     |                                 |                            |
|------------------------------------|-------------------------------------|---------------------------------|----------------------------|
| 178:22 179:16                      | 152:11 166:6                        | 102:2 113:13                    | 108:1 116:19               |
| 181:8 183:22                       | 166:14 178:8                        | 135:18 151:16                   | 116:21 127:3,4             |
| 193:24 194:5                       | 178:13,17                           | 155:10 162:14                   | 136:8 137:13               |
| 194:16 196:20                      | 180:22 189:8                        | 162:15 208:17                   | 141:5 213:12               |
| 198:7 212:20                       | 206:7 216:10                        | 213:24                          | 217:15                     |
| <b>convey</b> 205:17               | 221:17                              | <b>couples</b> 151:3            | <b>court</b> 1:1 6:7       |
| <b>convicted</b><br>14:21          | <b>corrections</b><br>223:12 225:17 | <b>courage</b> 151:14<br>163:17 | 7:19 9:8,10<br>40:22 224:7 |
| <b>coordinate</b><br>107:15        | <b>correctly</b> 42:14              | <b>course</b> 5:7 39:8          | <b>courtney</b><br>184:21  |
| <b>coordinator</b><br>121:22       | 135:15 139:25<br>166:5              | 45:14 46:16<br>49:3 57:6        | <b>courtroom</b> 8:25      |
| <b>copies</b> 103:25<br>104:1      | <b>council</b> 105:21               | 63:22 70:7                      | <b>cover</b> 5:4           |
| <b>copy</b> 16:12<br>31:25 56:20   | 105:23 107:1                        | 71:24 72:6                      | 137:22 138:2               |
| 58:18 82:15                        | <b>counsel</b> 6:9                  | 73:6 76:25                      | <b>covered</b> 149:25      |
| 119:18 167:22                      | 10:2,10 11:7                        | 82:10 90:25                     | <b>covid</b> 68:10,11      |
| 173:22 174:5                       | 11:19 95:8                          | 108:24 109:5                    | 84:6,7 121:18              |
| 174:17                             | 171:25 172:20                       | 116:2,6,14,21                   | 121:25 122:9               |
| <b>core</b> 143:1                  | 174:3 175:20                        | 128:11 136:14                   | 122:20,22                  |
| <b>correct</b> 25:7<br>30:20 31:16 | 210:5 220:1,10                      | 139:19 140:23                   | 123:4,17                   |
| 33:3,17 49:18                      | 222:2                               | 141:6,7,8                       | 130:18 144:9               |
| 49:21 53:24                        | <b>counselor</b>                    | 143:1 144:4                     | 144:11,13                  |
| 56:11,14 57:6                      | 151:23                              | 149:17,18                       | 145:15 166:24              |
| 58:13 59:18,23                     | <b>countries</b>                    | 154:5 157:4,12                  | 168:6 170:4                |
| 60:3,8 62:20                       | 121:24 122:12                       | 157:14,22,25                    | <b>crazy</b> 35:24         |
| 72:14 81:10,14                     | 122:21                              | 158:2,8,21                      | <b>create</b> 17:3         |
| 83:19,23 85:5                      | <b>country</b> 122:3                | 160:11 161:5                    | 21:5 39:25                 |
| 91:13 116:3,12                     | <b>counts</b> 14:24                 | 163:17 164:1                    | 43:15 105:25               |
| 116:17 120:25                      | <b>county</b> 221:4                 | 167:14 169:11                   | 139:4 141:9                |
| 123:7 134:16                       | 224:10 225:15                       | 172:15 196:20                   | 142:4 145:9                |
| 134:24 146:7                       | <b>couple</b> 11:23                 | 198:7,25                        | 146:25 153:3,4             |
|                                    | 21:17 29:1,6                        | 206:18                          | 158:23                     |
|                                    | 63:6 64:7,11                        | <b>courses</b> 36:20            | <b>created</b> 162:1,2     |
|                                    | 75:1 94:11                          | 46:2 48:22                      | 174:2,23                   |
|                                    | 99:23 101:4                         | 79:21 105:5                     |                            |

[creating - decisionmaker]

Page 15

|                 |                                                                                                                                                                                                                                                                                                                                    |                                          |                           |                           |                                             |                                           |                                                             |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|---------------------------|---------------------------|---------------------------------------------|-------------------------------------------|-------------------------------------------------------------|
| <b>creating</b> | 74:18<br>140:24                                                                                                                                                                                                                                                                                                                    | 194:16 195:1<br>196:8,20 198:6<br>212:20 | <b>dan</b>                | 6:12,14<br>40:20 173:9,10 | <b>deal</b>                                 | 37:3 66:16<br>94:8 111:2<br>139:20 193:13 |                                                             |
| <b>creative</b> | 43:14                                                                                                                                                                                                                                                                                                                              | <b>crunch</b>                            | 108:21                    | <b>daniel</b>             | 2:4                                         | <b>dealing</b>                            | 28:18                                                       |
| <b>creator</b>  | 161:22                                                                                                                                                                                                                                                                                                                             | <b>crushed</b>                           | 163:14<br>165:25          | <b>date</b>               | 6:2 59:18<br>71:13 92:19                    | <b>dean</b>                               | 39:23<br>40:6,14 41:4,4                                     |
| <b>credits</b>  | 38:14                                                                                                                                                                                                                                                                                                                              | <b>cultivation</b>                       | 106:6                     |                           | 138:8 166:7<br>175:15 220:11                |                                           | 76:14 83:20,20<br>92:22 98:25                               |
| <b>criminal</b> | 14:22                                                                                                                                                                                                                                                                                                                              | <b>curiosity</b>                         | 145:9                     |                           | 223:8 224:3,9                               |                                           | 99:8,12,16,17                                               |
| <b>crossed</b>  | 156:23<br>167:4                                                                                                                                                                                                                                                                                                                    | <b>curious</b>                           | 8:2                       |                           | 224:19 225:3                                |                                           | 99:18,19,21,23                                              |
| <b>crossing</b> | 203:2                                                                                                                                                                                                                                                                                                                              | <b>current</b>                           | 12:12<br>208:11           |                           | 225:13,25<br>226:20,25                      |                                           | 99:25 100:10<br>100:18,18                                   |
| <b>crowd</b>    | 93:24<br>200:7                                                                                                                                                                                                                                                                                                                     | <b>currently</b>                         | 10:20                     | <b>dated</b>              | 70:25                                       |                                           | 105:22,25                                                   |
| <b>crowded</b>  | 95:4                                                                                                                                                                                                                                                                                                                               |                                          | 208:1                     |                           | 115:23 120:16                               |                                           | 159:7 181:17                                                |
| <b>crowds</b>   | 153:16                                                                                                                                                                                                                                                                                                                             | <b>curriculum</b>                        | 193:19                    |                           | 166:5 174:17                                |                                           | 182:3 204:25                                                |
| <b>crucial</b>  | 5:5,6<br>34:25 36:23<br>37:2,11 44:25<br>45:6 70:18<br>87:12 93:21<br>99:9 116:11,23<br>118:17 120:22<br>127:12 137:6<br>139:17,18<br>141:7,19,20<br>142:25 143:13<br>143:17 149:15<br>149:16 157:10<br>158:7,21<br>159:23 161:4,6<br>161:11,22<br>169:10 171:14<br>172:14 173:9<br>173:10 178:21<br>179:15 183:21<br>193:24 194:5 | <b>curtain</b>                           | 73:12<br>96:21 182:25     | <b>dates</b>              | 30:18<br>49:13                              | <b>dean's</b>                             | 55:19<br>157:22                                             |
|                 |                                                                                                                                                                                                                                                                                                                                    | <b>customers</b>                         | 14:2                      | <b>david</b>              | 2:9 6:11<br>6:18 7:5 16:19<br>36:4,12 56:24 | <b>deans</b>                              | 99:24<br>101:4                                              |
|                 |                                                                                                                                                                                                                                                                                                                                    | <b>customized</b>                        | 164:10                    |                           | 126:15 131:4<br>145:20 220:12               | <b>dear</b>                               | 223:10                                                      |
|                 |                                                                                                                                                                                                                                                                                                                                    | <b>cut</b>                               | 24:21 44:14<br>50:14 74:4 | <b>david's</b>            | 36:1                                        | <b>decades</b>                            | 102:3                                                       |
|                 |                                                                                                                                                                                                                                                                                                                                    | <b>cutting</b>                           | 24:17                     | <b>david.stouffer</b>     | 2:12                                        | <b>decide</b>                             | 136:19                                                      |
|                 |                                                                                                                                                                                                                                                                                                                                    | <b>cuyahoga</b>                          | 221:4                     | <b>day</b>                | 40:2 52:21<br>71:10 79:2                    | <b>deciding</b>                           | 97:16                                                       |
|                 |                                                                                                                                                                                                                                                                                                                                    |                                          | <b>cv</b>                 |                           | 94:12 146:22                                | <b>decision</b>                           | 21:4<br>80:10 96:3,14<br>128:25 129:1                       |
|                 |                                                                                                                                                                                                                                                                                                                                    |                                          |                           |                           | 148:11 149:23<br>179:3,3,7                  |                                           | 129:16 130:3<br>191:20 197:19<br>198:5 217:1<br>218:8 219:7 |
|                 |                                                                                                                                                                                                                                                                                                                                    |                                          |                           |                           | 222:7 224:16<br>225:22 226:22               | <b>decisionmaker</b>                      |                                                             |
|                 |                                                                                                                                                                                                                                                                                                                                    |                                          |                           |                           | 225:22 226:22<br><b>days</b>                |                                           | 96:6 102:8<br>197:14                                        |
|                 |                                                                                                                                                                                                                                                                                                                                    |                                          |                           |                           | 46:1 79:1<br>162:14 223:18                  |                                           |                                                             |

**[decisionmaking - development]**

Page 16

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>decisionmaki...</b><br>95:23 97:11<br>98:18<br><b>deck</b> 87:12,15<br><b>deed</b> 224:14<br>225:20<br><b>deemed</b> 223:19<br><b>defamation</b><br>203:7<br><b>defendant</b> 6:19<br>12:11 98:21<br><b>defendant's</b><br>16:8 47:14,18<br>55:3,6 58:3<br>59:13 69:7<br>81:1 88:6<br>104:17 115:9<br>115:13 119:17<br>120:6,9 134:5<br>138:2 143:23<br>151:21 158:13<br>164:23 165:2<br>167:21 172:13<br>177:22 186:16<br>209:12 212:4<br>216:5 217:10<br>218:14 219:15<br><b>defendants</b><br>1:10 2:8 5:13<br>6:21 31:24<br>49:21 62:20<br>90:3 92:3<br>170:23 186:8<br>186:17 189:23 | 201:17,21<br>202:12 203:17<br>204:1 209:14<br>209:18 215:12<br>215:20<br><b>definitely</b> 45:7<br>50:10<br><b>definitive</b> 44:22<br>86:10<br><b>degree</b> 17:14<br>18:4,22,24<br>145:5<br><b>dei</b> 23:1<br><b>delivery</b> 220:9<br>220:11,13<br><b>demand</b> 138:13<br>153:13<br><b>demeaning</b><br>169:25<br><b>demoted</b> 66:2<br><b>denver</b> 26:20<br><b>department</b><br>27:14 41:13,16<br>41:22 42:1,4<br>43:4 60:13<br>62:13 65:21,25<br>67:8 86:13<br>87:23 92:12,16<br>92:17,24 95:17<br>96:5 105:6,7<br>105:16 106:8,9<br>113:21 123:24<br>124:3,7 129:2 | 160:16 223:22<br><b>departments</b><br>41:20<br><b>depending</b><br>122:10<br><b>depo's</b> 83:11<br><b>deposed</b> 6:25<br><b>deposition</b> 1:12<br>6:4 7:18 11:8<br>12:5 16:2 47:6<br>54:21 57:20<br>59:6 68:25<br>80:19 88:1<br>100:25 104:11<br>115:3 119:24<br>133:22 137:20<br>143:16 158:6<br>164:16 177:13<br>186:7 193:6<br>219:23 221:20<br>223:8,11 224:1<br>224:3 225:1,3<br><b>deputy</b> 100:18<br><b>describe</b> 44:8<br>105:10,12<br>140:21 171:24<br>201:14 204:2<br>206:9 209:20<br>209:21<br><b>described</b><br>124:13 217:6<br><b>describes</b> 152:9<br><b>describing</b><br>43:12 | <b>description</b> 4:2<br>4:17 5:2 11:18<br>37:9 104:12<br>105:2,4 201:17<br><b>desire</b> 190:11<br><b>destructive</b><br>169:24<br><b>detail</b> 72:22<br>73:5,9 79:14<br>195:4 196:25<br>212:21<br><b>detailed</b> 105:3<br><b>details</b> 73:17<br>73:18 78:6<br>85:22 87:9<br>134:19<br><b>determine</b><br>111:8<br><b>detoxify</b> 150:2<br>151:18<br><b>develop</b> 44:24<br>143:10<br><b>developing</b><br>32:15,16 36:21<br>45:5<br><b>development</b><br>18:7 19:22<br>21:1 23:2,3<br>24:16 25:13,13<br>28:12 29:13,14<br>29:18 32:14<br>40:3 43:9 44:7<br>139:7 207:24<br>207:25 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

[diabetes - document]

Page 17

|                        |                        |                         |                         |
|------------------------|------------------------|-------------------------|-------------------------|
| <b>diabetes</b> 10:23  | <b>digital</b> 159:5   | <b>discrimination</b>   | <b>distracted</b>       |
| <b>diabetic</b> 10:21  | <b>dimensions</b>      | 15:9 91:17              | 135:7                   |
| <b>difference</b>      | 142:6                  | <b>discuss</b> 76:6     | <b>distress</b> 209:1   |
| 51:17 126:3            | <b>direct</b> 92:5,8   | 77:3 97:12              | 209:16,22               |
| <b>different</b> 12:18 | <b>directions</b>      | 111:14,18,22            | <b>distribution</b>     |
| 23:1 24:8              | 107:12,23              | 118:22 125:2            | 164:10                  |
| 25:24 33:13            | <b>directly</b> 139:12 | 162:12 179:9            | <b>district</b> 1:1,1   |
| 58:25 63:11,16         | 163:18                 | 181:12 183:18           | 6:7,8                   |
| 63:18 71:12            | <b>director</b> 21:8   | <b>discussed</b> 47:2   | <b>disturbed</b>        |
| 86:2 94:2              | 52:6,12 53:6,9         | 77:4 78:17              | 19:11                   |
| 101:1 103:17           | 54:13 121:22           | 80:10 103:6             | <b>diversity</b> 27:25  |
| 107:9,10,23,25         | 139:3                  | 105:15 113:20           | 27:25                   |
| 116:18,20,25           | <b>disabled</b> 19:12  | 184:19 189:18           | <b>division</b> 1:2 6:8 |
| 117:2 122:11           | <b>disadvantage</b>    | 194:7                   | 170:13                  |
| 124:22 140:6           | 74:23                  | <b>discussing</b> 11:6  | <b>divorce</b> 15:16    |
| 145:1,14 153:6         | <b>disappointed</b>    | 152:10 212:10           | 93:14                   |
| 153:24 155:5           | 70:3                   | <b>discussion</b>       | <b>doc</b> 28:11 29:4   |
| 156:12 157:5           | <b>disciplinary</b>    | 125:18 164:2            | <b>doctoral</b> 27:15   |
| 157:16 159:6           | 185:18,22              | 176:18 185:21           | 27:24 28:6              |
| 159:10 161:5           | <b>discipline</b>      | <b>disdain</b> 155:7    | 29:3 30:16              |
| 166:23 180:9           | 193:1                  | <b>disgruntled</b>      | <b>doculink</b> 55:11   |
| 180:10,14,16           | <b>disciplined</b>     | 110:14 162:18           | <b>document</b>         |
| 182:11 184:4           | 43:15                  | <b>dispassionately</b>  | 11:15,16,20             |
| 194:19,21,23           | <b>disclaimer</b>      | 150:12                  | 16:17 48:24             |
| 206:14 207:14          | 154:17                 | <b>dispense</b> 57:14   | 55:25 56:2,3            |
| 210:14 213:25          | <b>discovery</b>       | <b>dispositive</b> 7:22 | 69:10,20 81:8           |
| 214:17                 | 16:25 176:2            | <b>disrespectful</b>    | 81:24 88:25             |
| <b>differential</b>    | <b>discrepancy</b>     | 150:3,6,22              | 95:24 96:10             |
| 82:12                  | 47:23                  | 154:24 155:9            | 97:1,2,9,12,13          |
| <b>differently</b>     | <b>discriminated</b>   | 170:2                   | 97:25 98:5,9            |
| 167:3                  | 201:16,21              | <b>distant</b> 20:22    | 98:11,14                |
| <b>difficult</b> 9:10  | 202:11,17              | <b>distinguished</b>    | 104:18 152:3            |
| 124:19 138:17          | 203:16                 | 11:21 100:14            | 157:4 158:16            |
| 139:22                 |                        | 113:11                  | 158:19,24               |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 159:22 164:4<br>165:24 171:25<br>172:14,19<br>173:6,8,18<br>174:1,12,17<br>175:4,19 176:6<br>187:19 188:17<br>189:2,6,15<br>197:20,23<br>198:1 209:24<br>210:2 216:22<br>216:25 217:6<br><b>documents</b><br>5:15 11:9,11<br>11:19,25 55:16<br>57:8,13 103:23<br>103:23 186:10<br>217:5<br><b>docusign</b> 55:14<br><b>docusigned</b><br>55:13<br><b>doing</b> 8:1 32:13<br>55:21 61:12,15<br>72:3,7 100:8<br>124:17 150:3<br>159:23 179:19<br>183:1 194:9<br>200:17 202:6<br>207:1,1<br><b>domain</b> 107:6,7<br><b>domains</b> 107:4<br>107:11<br><b>door</b> 61:6,25<br>67:13 75:6 | 84:7 125:12,13<br>205:3<br><b>double</b> 127:11<br><b>dozen</b> 213:24<br><b>dpetrov</b> 2:6<br><b>dr</b> 27:15 74:1,8<br>83:3 88:24<br>107:22 223:8<br>224:4,9 225:4<br>225:13 226:20<br><b>draft</b> 157:12<br><b>drastically</b><br>149:19<br><b>drive</b> 35:24<br><b>driver</b> 134:22<br><b>due</b> 211:6<br><b>duly</b> 6:24 221:7<br>221:10<br><b>duties</b> 36:17<br>43:11,12<br>101:15 102:12<br>105:11 108:4<br><b>duty</b> 141:11<br><b>dysfunctional</b><br>156:17<br><b>e</b><br><b>e</b> 2:4<br><b>eager</b> 86:9 97:7<br><b>earlier</b> 29:7<br>33:17 37:11<br>103:6 105:15<br>154:2 175:15<br>193:5 217:4 | <b>early</b> 52:20<br>54:10 127:9<br><b>earnings</b> 51:11<br><b>earshot</b> 172:1<br><b>eastern</b> 1:2 6:8<br><b>eat</b> 66:24 67:1<br><b>ed</b> 13:10,14<br>14:8 19:9<br>27:17 33:10<br>44:16 50:10,17<br>51:1,4,16,18<br>52:5,7,12,23<br>53:19,25 54:14<br>55:21,22 81:21<br>82:1,4 93:16<br>93:18 94:6<br>99:25 113:7,9<br>206:15,16,19<br>206:22 207:13<br>214:12,13,20<br>215:3<br><b>edition</b> 138:6<br><b>editions</b> 138:7<br><b>education</b> 17:7<br>17:9 18:5,25<br>19:3 28:22<br>51:5 214:16<br><b>educational</b><br>30:1 31:6<br>90:25 198:25<br>200:5 206:15<br><b>effect</b> 54:2<br>184:2,3 | <b>effective</b> 140:7<br>149:2 169:3<br><b>effectively</b><br>168:10<br><b>efforts</b> 212:19<br><b>eight</b> 46:20<br>79:21<br><b>either</b> 6:13<br>94:21 95:8<br>96:4,5 97:9<br>98:5 99:18<br>113:20 132:20<br>147:25 163:8<br>165:7 168:13<br>201:15 216:21<br>219:2 222:2<br><b>elders</b> 105:21<br><b>elective</b> 143:1,2<br><b>electronic</b><br>164:6<br><b>eleven</b> 11:21<br><b>eliminate</b> 64:18<br><b>else's</b> 38:9<br>161:12<br><b>email</b> 4:22 5:8<br>5:10 54:16<br>63:1 71:3 86:6<br>86:7,17 87:10<br>97:18 103:22<br>118:18 133:23<br>134:6,8,12<br>135:11 164:17<br>167:22 170:21<br>172:21 177:14 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

[email - exactly]

Page 19

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 178:2,4 181:14<br>192:20,25<br>223:17<br><b>emailing</b><br>178:16<br><b>emails</b> 174:1<br>180:21 211:16<br><b>embedded</b><br>33:10<br><b>embouchure</b><br>168:11<br><b>embracing</b><br>28:17<br><b>emergencies</b><br>68:7<br><b>emerging</b><br>120:24<br><b>emeritus</b><br>105:25<br><b>emotional</b><br>144:23 146:25<br>150:10 209:1<br>209:16,17,21<br>210:15 211:7<br><b>emotionally</b><br>19:10,11<br><b>emotions</b><br>155:21<br><b>emphasize</b> 9:4<br><b>emphatic</b><br>152:22,24<br><b>employed</b><br>25:18 34:19<br>113:16 176:1 | <b>employee</b> 99:14<br>102:1<br><b>employees</b><br>21:19 29:20<br>32:24<br><b>employer</b> 15:10<br><b>employers</b> 15:6<br><b>employment</b><br>20:2 22:13<br>23:18 29:22<br>30:18,24 33:23<br>34:22 48:6<br>52:22 56:5,13<br>75:9 93:11<br>194:4 196:19<br>206:7,10 211:8<br>212:13,17<br>213:20 214:7<br>216:18 217:2<br><b>enclosed</b><br>223:11<br><b>encouraging</b><br>125:24<br><b>ended</b> 30:25<br>162:13 179:24<br><b>ends</b> 48:25<br>162:11<br><b>engage</b> 150:25<br>154:23 211:5<br><b>engaged</b> 131:15<br>153:19 156:3<br><b>engagement</b><br>145:2 207:6 | <b>engagements</b><br>32:11 208:7<br><b>engaging</b> 76:19<br>153:1<br><b>engrossed</b><br>146:4<br><b>ensuring</b><br>103:20<br><b>entered</b> 225:9<br><b>enterprise</b><br>25:17<br><b>entire</b> 21:9 36:4<br>36:8 224:5<br>225:5<br><b>entirety</b> 37:24<br>38:1 51:23<br><b>environment</b><br>122:20 141:10<br>180:11,11<br>188:7 200:5<br><b>equity</b> 183:3,10<br>184:24<br><b>equivalent</b><br>213:17 214:16<br><b>errata</b> 223:13<br>223:18 225:7<br>225:10,18<br>226:1<br><b>error</b> 177:3<br><b>especially</b> 45:7<br>122:19<br><b>esq</b> 2:4,4,9,10<br>2:10,15 223:5 | <b>essentially</b><br>134:23<br><b>et</b> 1:8 6:6 32:16<br>223:6 224:3<br>225:3<br><b>ethnic</b> 165:13<br>168:23<br><b>eval's</b> 109:10<br>109:12 113:9<br><b>evals</b> 108:21<br><b>evaluate</b><br>110:23<br><b>evaluation</b><br>115:17,18<br>116:1 120:13<br>120:21 121:16<br>123:21 217:25<br>218:20,22<br><b>evaluations</b><br>108:10,23<br>121:11<br><b>event</b> 222:3<br><b>eventually</b><br>145:20<br><b>everybody</b><br>153:17<br><b>everyday</b><br>210:16<br><b>evidence</b> 94:20<br><b>exact</b> 54:7<br><b>exactly</b> 22:8<br>54:1,3 173:19<br>205:21 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**[examination - experiencing]**

Page 20

|                    |                   |                   |                           |
|--------------------|-------------------|-------------------|---------------------------|
| <b>examination</b> | 53:25 54:14       | <b>exercises</b>  | 114:5                     |
| 3:5 6:23 7:2       | 55:21,22 93:16    | <b>exercising</b> | 177:13,22<br>178:1 180:20 |
| 216:1 219:12       | 99:25 113:7,9     |                   | 186:1,7,16,25             |
| <b>examined</b>    | 100:2             | <b>exhibit</b>    | 187:16,17                 |
| <b>example</b>     | 225:10            | 4:8,10,12,14,16   | 198:12,12,15              |
| 35:6               | <b>execution</b>  | 4:16,18,20,22     | 198:17 209:12             |
| 36:24 38:21        | 100:6 224:14      | 5:3,5,6,8,10,13   | 212:4,7 216:6             |
| 45:24 67:6         | 225:19            | 15:19 16:2,8      | 217:10 218:14             |
| 73:10 82:9,10      | <b>executive</b>  | 16:20 17:4        | 218:17 219:15             |
| 116:22 144:22      | 13:13 23:2,25     | 31:25 47:6,14     | <b>exhibits</b> 3:4 4:1   |
| 144:24 146:14      | 24:4,6 25:12      | 47:19 48:1        | 5:1                       |
| 147:22,24          | 27:17 28:3        | 54:21 55:3,7      | <b>exits</b> 172:11       |
| 148:6 159:14       | 32:10,13,20       | 55:18 56:19       | <b>expanded</b>           |
| 202:15             | 33:10 38:19,22    | 57:1,20 58:3,7    | 106:1                     |
| <b>examples</b>    | 44:16 45:12,16    | 59:6,13 68:15     | <b>expect</b> 100:21      |
| 37:5               | 50:10,17 51:1     | 68:18,21,25       | <b>expectations</b>       |
| 79:13 142:15       | 51:4,5,18 52:5    | 69:7,12,15        | 45:20 47:2                |
| 202:20             | 52:23 81:21       | 80:14,19 81:1     | 219:3                     |
| <b>excellence</b>  | 82:1,4 93:18      | 81:2,4,6 83:19    | <b>expected</b>           |
| 20:25              | 94:6 99:22        | 88:1,6 89:6       | 111:15 114:18             |
| <b>excellent</b>   | 100:18,18         | 104:11,17,20      | 115:1                     |
| 74:14              | 147:4 157:17      | 115:3,10,14,16    | <b>expense</b> 65:16      |
| <b>except</b>      | 161:7 167:11      | 118:2 119:17      | <b>experience</b> 20:8    |
| 39:22              | 202:22 206:16     | 119:24 120:6      | 34:11 43:7                |
| 110:25             | 206:19,22         | 120:10,21         | 44:5 64:5                 |
| <b>exception</b>   | 207:1,13 208:3    | 125:22 133:22     | 93:16,23                  |
| 30:11              | 208:7 214:12      | 134:5 137:20      | <b>experience</b>         |
| <b>exceptional</b> | 214:13,20         | 138:2 143:16      | 110:15 162:8              |
| 109:4 114:4        | 215:3             | 143:23 151:21     | 205:14,14                 |
| 119:1              | <b>executives</b> | 152:6 158:6,13    | 209:8                     |
| <b>exchanges</b>   | 13:21 29:15       | 158:19 164:16     | <b>experiences</b>        |
| 86:15              | 107:16            | 164:23 165:3      | 43:3 93:19                |
| <b>excited</b>     | <b>exemptions</b> | 167:21 172:13     | <b>experiencing</b>       |
| 42:23              | 170:12            | 172:14 173:6      | 155:19                    |
| 43:25              |                   |                   |                           |
| <b>excuse</b>      |                   |                   |                           |
| 62:13              |                   |                   |                           |
| 90:15 155:2,3      |                   |                   |                           |
| <b>exec</b>        |                   |                   |                           |
| 14:8 51:16         |                   |                   |                           |
| 52:7,12 53:19      |                   |                   |                           |

**[experiential - filed]**

Page 21

|                                                             |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------|------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>experiential</b><br>142:2,18<br>146:24                   | <b>eye</b> 176:7<br><b>eyes</b> 97:25<br>135:7 | 189:22<br><b>failing</b> 26:2<br><b>fair</b> 146:25<br><b>fall</b> 41:1 49:4<br>67:21 84:3,21<br>144:5 181:19<br>184:8<br><b>familiar</b> 85:24<br>100:12 183:14                                                                                                                                                                                                                                                                                                                                         | 182:5,16 192:3<br>192:11 195:6<br>216:6<br><b>federal</b> 6:23<br><b>feedback</b> 100:6<br>100:7 106:21<br>142:9 166:10<br>194:2<br><b>feel</b> 9:17 112:24<br>118:10 155:21<br>156:11 210:20                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                          |
| <b>expert</b> 43:1<br>108:12                                | <b>f</b>                                       | <b>face</b> 86:16,16<br>151:5,19 153:4<br>168:11,15<br><b>facetime</b> 67:5<br><b>facing</b> 14:1<br>100:20 101:2<br>105:24<br><b>fact</b> 31:11<br>43:23 77:7<br>94:22 96:14<br>108:18 112:13<br>112:16 165:14<br>169:22 193:11<br>218:6<br><b>facts</b> 187:2,25<br>189:24 191:19<br>196:17 199:5<br>199:20 200:18<br>200:21<br><b>faculty</b> 12:19<br>13:9,17 28:3<br>43:21 44:15<br>63:22 69:20<br>93:18 100:15<br>108:16 109:24<br>111:2,7 113:7<br>120:13 121:20<br>124:1,4 170:6<br>188:8 189:18 | <b>family</b> 19:19,25<br>20:14 31:21<br>210:17,21,24<br><b>far</b> 47:2 58:21<br>65:5 67:9<br>72:22 77:3<br>81:13 82:4<br>97:13 105:9<br>106:24 111:15<br>138:22<br><b>farmed</b> 101:12<br><b>fashioned</b><br>142:10<br><b>fast</b> 45:5<br>156:24,24<br>167:5,17<br><b>faster</b> 152:1<br><b>fathers</b> 95:10<br>95:11<br><b>favor</b> 124:14<br><b>february</b> 69:17<br>70:5,24 71:1<br>71:13 72:11<br>73:25 85:3<br>87:21 179:11 | 122:15 135:14<br>143:5 147:14<br>151:12 163:4<br>165:8,23<br>166:21 167:4<br>167:14 168:20<br>168:23 170:16<br>182:12 188:13<br>190:17 195:20<br>212:25<br><b>female</b> 147:13<br>183:19<br><b>field</b> 43:2,7<br><b>figure</b> 175:23<br><b>file</b> 103:25<br>118:4 174:19<br><b>filed</b> 15:4,8,12<br>89:15 118:15 |
| <b>expertise</b> 139:5                                      |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
| <b>expiration</b><br>224:19 225:25<br>226:25                |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
| <b>expires</b> 222:17                                       |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
| <b>explain</b> 13:14<br>30:17 38:6<br>99:15 166:20<br>172:6 |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
| <b>explained</b> 72:2<br>72:4 94:15<br>132:10               |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
| <b>explore</b> 63:10<br>209:19                              |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
| <b>expressing</b><br>90:24 198:24<br>199:8                  |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
| <b>expression</b><br>188:9                                  |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
| <b>extended</b> 30:9                                        |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
| <b>extension</b> 62:24<br>209:6                             |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
| <b>extent</b> 9:11<br>36:4 67:23<br>205:23 206:1            |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
| <b>external</b> 101:2                                       |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
| <b>extra</b> 213:12,12                                      |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |
| <b>extraordinary</b><br>130:17 133:2                        |                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                          |

[filed - form]

Page 22

|                         |                     |                        |                       |
|-------------------------|---------------------|------------------------|-----------------------|
| 118:16,18               | 19:6,14 22:5        | 106:17 111:1           | 155:25 207:15         |
| <b>fill</b> 38:23 64:18 | 30:2 34:7 38:7      | 113:17 136:2           | <b>focuses</b> 138:11 |
| <b>filled</b> 64:12     | 50:4,6 51:20        | 136:25 157:8           | <b>focusing</b> 32:9  |
| 109:18                  | 56:21 61:19         | 157:10 159:4           | <b>folded</b> 51:15   |
| <b>final</b> 81:19      | 66:12 68:10         | 160:20,20              | <b>folks</b> 34:24    |
| <b>finally</b> 66:20    | 71:5,8,12           | 170:5 174:13           | 35:1 38:3             |
| <b>find</b> 53:10 70:8  | 80:14 83:10         | 175:5 208:22           | 145:10 207:16         |
| 72:1 84:11              | 89:5,6,9,22         | 215:13                 | <b>follow</b> 84:14   |
| 97:7 125:23             | 90:2,19,21,22       | <b>fisher's</b> 178:20 | 87:6 93:20            |
| 179:15 181:22           | 91:2,3,15 93:8      | <b>fitchburg</b> 18:15 | 94:5 135:10           |
| 192:17 223:11           | 93:10,11,20         | 18:17,19 19:2          | <b>followed</b> 46:12 |
| <b>finding</b> 206:10   | 105:9 106:23        | <b>five</b> 14:17,18   | <b>following</b> 19:8 |
| <b>fine</b> 10:4 20:5   | 109:3 113:23        | 30:1 31:6,11           | 94:23,25 179:3        |
| 72:7 83:6,7             | 116:25 144:8,9      | 46:18 79:21            | 179:7                 |
| 131:4 163:22            | 144:11 145:6        | 90:2 106:3             | <b>follows</b> 7:1    |
| 171:18 175:22           | 145:15 152:3        | 171:17 191:19          | 218:16                |
| 210:1                   | 159:12 161:10       | 193:16 215:11          | <b>followup</b> 37:10 |
| <b>finish</b> 36:4 62:3 | 161:11 166:9        | 215:19                 | <b>forbid</b> 119:13  |
| 77:24 78:1              | 167:2 169:8         | <b>fix</b> 77:2 204:21 | <b>force</b> 112:17   |
| 160:8                   | 170:22 178:15       | 204:24 205:24          | <b>forced</b> 71:25   |
| <b>finished</b> 9:18    | 180:2,20            | <b>fixed</b> 76:20     | 112:5,12              |
| 81:2 104:18             | 183:25 186:9        | 205:1                  | 179:13,14             |
| 115:10 120:7            | 198:21,22           | <b>flawed</b> 108:8    | 192:17                |
| 144:1                   | 199:2 215:15        | 117:16 122:1           | <b>foregoing</b>      |
| <b>finishing</b>        | 217:24 218:25       | <b>flip</b> 186:2      | 221:16,21             |
| 172:20                  | 221:10              | <b>floor</b> 2:11      | 224:13 225:18         |
| <b>fired</b> 77:7       | <b>fisher</b> 13:18 | <b>flow</b> 200:16     | <b>forever</b> 168:21 |
| 192:4 204:20            | 14:9 34:19          | <b>fly</b> 30:13 137:8 | <b>forget</b> 208:25  |
| 205:24                  | 35:11,17 40:1       | <b>focus</b> 44:8,11   | <b>forgot</b> 37:9    |
| <b>firing</b> 79:7      | 40:16 41:5,16       | 138:10 147:16          | 83:1 212:14           |
| <b>firm</b> 21:11       | 63:14 84:5,5        | 208:6                  | <b>form</b> 42:20     |
| 207:21                  | 86:13 101:16        | <b>focused</b> 21:1    | 59:1 190:3            |
| <b>first</b> 5:13 6:12  | 101:21 102:3        | 28:17 77:6             | 196:4 200:1           |
| 6:24 8:1 15:19          | 102:13,17           | 152:14 155:1           | 201:18                |

[format - giving]

Page 23

|                                                                                |                                                       |                                                   |                                                                                                                                                   |
|--------------------------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>format</b> 218:15<br>218:17                                                 | <b>freedom</b> 91:7<br>91:24 188:9                    | <b>fuzzy</b> 86:8                                 | 85:14 86:21<br>104:1 117:12                                                                                                                       |
| <b>former</b> 15:6,10<br>39:23 40:6<br>83:20 105:22                            | <b>freely</b> 10:3                                    | <b>g</b>                                          | 121:21 122:23<br>124:17 137:5<br>137:12 142:9<br>146:4 154:1<br>180:18                                                                            |
| <b>forth</b> 187:2<br>199:4                                                    | <b>friendly</b> 85:24                                 | <b>games</b> 114:6                                | <b>gig</b> 208:4                                                                                                                                  |
| <b>forum</b> 163:9                                                             | <b>friends</b> 196:11<br>210:24                       | <b>gap</b> 121:8,9,19<br>121:22 123:3<br>123:16   | <b>girlfriend</b><br>146:20                                                                                                                       |
| <b>forums</b> 200:6                                                            | <b>front</b> 5:3 68:17<br>88:17 137:22                | <b>garden</b> 209:16<br>209:21                    | <b>give</b> 10:3 24:7<br>30:14 36:7<br>47:13 72:22                                                                                                |
| <b>forward</b> 7:21<br>13:3 32:3 45:5<br>57:18 223:15                          | 181:19 182:12                                         | <b>gather</b> 56:22<br>102:7                      | 73:9 79:13,13<br>92:25 100:6<br>104:16 106:21<br>109:23 142:14<br>144:24 147:21<br>147:24 148:6<br>152:2 154:16<br>155:23 175:15<br>186:15 209:25 |
| <b>forwarded</b><br>173:6,8,21                                                 | <b>fruitless</b> 118:6                                | <b>gathering</b><br>103:2                         | 212:6 213:1<br>216:4 218:13<br>220:1,10                                                                                                           |
| <b>found</b> 54:12<br>66:21 140:6<br>147:6 148:25<br>153:22,23<br>203:1 211:16 | <b>frustrated</b><br>94:22                            | <b>gender</b> 134:23<br>134:24 169:17             | <b>given</b> 19:25<br>46:11 121:13<br>132:12 136:24                                                                                               |
| <b>foundation</b><br>89:17 98:10<br>114:20 116:4                               | <b>frustrating</b><br>122:14                          | <b>general</b> 2:9<br>21:3 43:13<br>45:11         | 139:5 208:15<br>212:24 214:1<br>221:13,18                                                                                                         |
| <b>foundations</b><br>27:16 127:5                                              | <b>full</b> 9:15 17:21<br>32:11 102:1,4<br>160:21     | <b>general's</b> 12:18                            | <b>giving</b> 31:11<br>38:14 45:23<br>56:12 112:13                                                                                                |
| <b>four</b> 61:9 106:2<br>130:2 216:20                                         | <b>fully</b> 168:5                                    | <b>generally</b> 92:7<br>99:13 140:19<br>145:2    |                                                                                                                                                   |
| <b>frameworks</b><br>142:12                                                    | <b>function</b> 35:13<br>138:16                       | <b>generating</b><br>208:1 211:6                  |                                                                                                                                                   |
| <b>france</b> 122:13                                                           | <b>functions</b> 35:12<br>190:18                      | <b>gentleman</b> 61:5<br>99:22 162:24<br>207:3    |                                                                                                                                                   |
| <b>frank</b> 1:17                                                              | <b>fundraising</b><br>100:22 101:3                    | <b>genuine</b> 166:10                             |                                                                                                                                                   |
| <b>free</b> 30:15<br>88:21 215:15<br>215:21 224:14<br>225:20                   | <b>funds</b> 32:12<br>107:8                           | <b>george</b> 33:15                               |                                                                                                                                                   |
|                                                                                | <b>further</b> 72:20<br>176:18 184:19<br>221:19 222:1 | <b>gestalt</b> 28:14<br>28:20                     |                                                                                                                                                   |
|                                                                                | <b>furthest</b> 168:17                                | <b>getting</b> 20:3<br>50:16 62:9<br>68:9,10 71:2 |                                                                                                                                                   |
|                                                                                | <b>future</b> 53:2<br>86:11 138:14                    |                                                   |                                                                                                                                                   |

[global - guys]

Page 24

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>global</b> 43:18<br>124:21                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>goal</b> 170:19<br><b>god</b> 119:13<br>145:8                                                                                                                                                                                                                                                                                                                                                                                                               | 163:23,25<br>164:1,22 170:4<br>171:14 175:20                                                                                                                                                                                                                                                                                                       | <b>graduate</b> 17:23<br>18:8 100:15<br>105:5 111:5,6                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>globally</b> 29:16                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>goes</b> 58:22                                                                                                                                                                                                                                                                                                                                                                                                                                              | 177:21 179:15                                                                                                                                                                                                                                                                                                                                      | 111:9 113:12                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>go</b> 7:6,21 13:3<br>17:7 19:2,16<br>20:21,21 23:12<br>26:21,25 30:3<br>31:5 32:4 35:2<br>45:20 46:8,14<br>48:16 50:5<br>59:2 70:16,17<br>71:20 72:11,19<br>73:7 74:24<br>77:17 80:4,7<br>88:25 92:2<br>94:16 102:9<br>110:8,9 116:1<br>122:2,25 125:2<br>125:11 126:6<br>126:17 131:5<br>131:25 133:9<br>136:10 148:13<br>149:4 156:24<br>164:11 171:22<br>174:22,25<br>176:18 186:24<br>187:15,24<br>194:12,15,22<br>195:8,21 196:5<br>196:7,24<br>198:11,16,18<br>201:12,22<br>203:20,24<br>204:25 212:3 | <b>going</b> 9:18 10:7<br>10:18 15:18,21<br>16:7 17:6 18:1<br>18:14 20:20,21<br>22:13 28:16<br>35:23 43:11<br>47:13 48:13<br>55:2 57:18<br>58:2 68:7 69:6<br>72:2,17 74:5<br>77:20 80:16<br>84:10,15 85:23<br>86:1 88:5,18<br>90:1 93:15<br>94:12 96:19,19<br>96:22 97:7<br>104:16,25<br>105:1 112:20<br>115:9 118:7<br>120:5,20<br>121:20,23<br>122:3 123:1<br>131:11 133:15<br>135:24 136:4<br>138:1,9 143:22<br>151:13 155:6,8<br>155:17 158:12<br>159:6,17 | 179:25 180:3<br>181:22,24<br>186:15 187:24<br>192:8,17,18<br>193:15 195:20<br>197:2 198:13<br>198:20 199:14<br>199:24 201:12<br>208:4 216:4<br>219:14<br>45:9 126:12<br>179:24 196:11<br>200:9 210:18<br>210:21<br>122:10<br>113:8<br>24:18,20<br>121:21<br>122:4<br>122:23<br>112:14<br>114:14 122:15<br>112:2<br>112:3,12<br>114:14,16<br>122:17 | 127:7,25 128:4<br><b>graduated</b> 19:7<br><b>gray</b> 170:8<br><b>great</b> 20:8<br>31:19 45:4<br>87:14 102:18<br>204:10<br><b>ground</b> 122:9<br>124:15 131:21<br><b>grounds</b> 88:22<br><b>group</b> 2:3<br>142:9<br><b>growth</b> 153:23<br><b>guess</b> 51:2 56:6<br>69:18 74:4<br>104:3 126:17<br>167:20<br><b>guessing</b> 65:22<br><b>guesstimating</b><br>14:18 37:17<br><b>guidance</b> 99:8<br>102:23 107:8<br>128:19 170:6<br><b>guide</b> 99:19<br>106:4<br><b>guiding</b> 95:12<br>211:14<br><b>guilty</b> 14:21<br><b>guys</b> 79:20 |

**[h - historically]**

Page 25

|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>h</b> | 108:22 131:18<br>132:5,11,14<br>134:15 135:16<br>149:23 162:8<br>162:13 181:17<br>195:15,17<br>196:10,13<br><b>happening</b><br>182:25<br><b>happens</b> 35:10<br>204:23<br><b>happy</b> 9:23<br>112:12<br><b>hard</b> 36:2<br>86:20 122:1<br>132:11 170:15<br><b>hardworking</b><br>203:6<br><b>harm</b> 209:17<br><b>harvard</b> 18:1,3<br>18:5<br><b>hate</b> 150:6,22<br>151:1,5<br><b>hateful</b> 154:24<br><b>health</b> 26:2<br>68:6 132:3<br><b>hear</b> 150:9<br><b>heard</b> 39:15<br>42:14 63:6<br>72:9 96:2 97:9<br>157:3,5 200:10<br><b>hearing</b> 34:10<br>180:1 | <b>heart</b> 163:15<br><b>heartfelt</b><br>166:10<br><b>heavy</b> 141:11<br><b>heights</b> 2:5<br><b>held</b> 21:9 76:13<br>87:13 122:11<br><b>help</b> 66:11 77:2<br>79:19,23 85:25<br>99:6,19 106:4<br>107:15,15<br>126:3 137:4<br>144:19 147:11<br>169:2 170:19<br>202:4 213:10<br>213:15<br><b>helped</b> 79:22<br>213:10<br><b>helpful</b> 153:23<br><b>helping</b> 106:22<br>147:18 150:4<br>163:15 166:2<br>211:17<br><b>helps</b> 139:19<br><b>hereinafter</b><br>6:25<br><b>hereunto</b> 222:5<br><b>hidden</b> 96:21<br><b>hierarchies</b><br>21:2<br><b>hierarchy</b><br>215:4<br><b>high</b> 12:8 14:2<br>19:8,12 45:12 | 96:16 100:12<br>110:16 113:8<br>119:2,2,5<br>121:5 138:13<br>153:13<br><b>higher</b> 50:25<br>65:15 206:15<br><b>highlight</b><br>157:12 158:2<br><b>highlighted</b><br>176:17<br><b>highlights</b> 5:7<br>157:4,14 158:8<br>160:12 172:15<br>173:11<br><b>highly</b> 100:16<br>130:25 135:6<br>144:22<br><b>hire</b> 26:7 42:24<br>52:8 53:18<br>133:9<br><b>hired</b> 22:19,24<br>34:24 51:20<br>112:2 206:16<br><b>hiring</b> 34:8<br>39:14 44:4<br>48:15 50:9<br>64:9 76:15<br>92:11,18<br>128:17,24<br>129:1<br><b>historically</b><br>193:7 |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

[history - including]

Page 26

|                  |                                                                                                         |                                                  |                       |                                 |                        |                         |
|------------------|---------------------------------------------------------------------------------------------------------|--------------------------------------------------|-----------------------|---------------------------------|------------------------|-------------------------|
| <b>history</b>   | 20:22<br>30:3 109:6                                                                                     | 73:16 79:15,25<br>83:23,25 84:2                  | <b>hundred</b>        | 161:8<br>161:9 208:18           | <b>impact</b>          | 117:21                  |
| <b>hold</b>      | 34:7<br>145:19 173:9<br>203:12 212:5                                                                    | 84:4,10,11<br>85:8,13,17<br>86:13,20,21          | <b>hundreds</b>       | 130:15                          | <b>impacted</b>        | 117:20                  |
| <b>holiday</b>   | 67:7,11                                                                                                 | 87:8,22 90:7                                     | <b>hurt</b>           | 181:4                           | <b>important</b>       | 9:3<br>37:2 38:2        |
| <b>holy</b>      | 145:7                                                                                                   | 96:9 97:15                                       | <b>i</b>              |                                 | <b>impossible</b>      | 63:2<br>113:24          |
| <b>home</b>      | 134:21<br>144:14 148:11                                                                                 | 98:19 101:9<br>102:1,4,10                        | <b>i.e.</b>           | 121:6,7                         | <b>inability</b>       | 66:16                   |
| <b>homes</b>     | 145:16                                                                                                  | 103:1,5,25                                       | <b>idea</b>           | 39:21<br>78:13 136:3            | <b>inadvertently</b>   | 175:12                  |
| <b>honda</b>     | 44:19<br>53:2 82:10,13                                                                                  | 108:20 116:3<br>124:1,2 132:19                   | <b>ideas</b>          | 114:5                           | <b>inappropriate</b>   | 131:22 162:20           |
| <b>hone</b>      | 96:25                                                                                                   | 178:20 179:13                                    | <b>identification</b> | 16:5 47:11<br>54:25 57:24       | <b>inappropriately</b> | 163:11 165:9            |
| <b>honest</b>    | 203:6                                                                                                   | 182:11 184:17                                    |                       | 59:10 69:4<br>80:23 88:3        | <b>inaudible</b>       | 176:1                   |
| <b>honeywell</b> | 25:6<br>25:18,21 26:12<br>26:25                                                                         | 188:14 190:18<br>190:19,21<br>192:17 195:2       |                       | 104:14 115:7<br>120:3 134:2     | <b>inaugural</b>       | 106:17,23               |
| <b>honor</b>     | 215:5                                                                                                   | 200:9 212:22                                     |                       | 137:24 143:20<br>158:10 164:20  | <b>incident</b>        | 72:25<br>147:23 170:24  |
| <b>hooked</b>    | 150:21                                                                                                  | <b>hum</b> 14:3 29:5                             |                       | 177:18 186:12                   |                        | 181:9,13                |
| <b>horrific</b>  | 150:25                                                                                                  | 30:7 69:25                                       | <b>identified</b>     | 182:21 183:11                   |                        | 182:21 183:11           |
| <b>hospital</b>  | 132:2                                                                                                   | 91:18 100:1                                      |                       | 185:7 188:20                    |                        | 185:7 188:20            |
| <b>hour</b>      | 36:23                                                                                                   | 114:12 117:3                                     | <b>identify</b>       | 190:2 191:21                    |                        | 190:2 191:21            |
| <b>hours</b>     | 38:8 95:3<br>158:20 166:1                                                                               | 124:9 134:17<br>142:8 165:11                     |                       | 192:23,24                       |                        | 192:23,24               |
| <b>house</b>     | 26:21<br>31:22 43:22<br>67:8 210:23                                                                     | 168:8                                            |                       | 193:1,8,12                      |                        | 193:1,8,12              |
| <b>hr</b>        | 34:23,24<br>35:1,5,13<br>37:10,11,22,25<br>38:2 41:14,15<br>44:6 62:14<br>70:9,15 71:14<br>72:1,19 73:8 | <b>human</b> 41:22<br>42:4 43:7<br>105:6 116:5,6 | <b>imagine</b>        | 201:13                          | <b>include</b>         | 82:1,3<br>161:13 201:17 |
|                  |                                                                                                         | <b>humbly</b> 74:13                              |                       | 203:25                          |                        | 161:13 201:17           |
|                  |                                                                                                         | <b>humiliated</b>                                | <b>immediately</b>    | ii 10:21,22                     | <b>included</b>        | 51:1                    |
|                  |                                                                                                         | 195:20                                           | 78:15 101:10          | imagine 53:10                   |                        | 150:1 165:20            |
|                  |                                                                                                         | <b>humiliating</b>                               | 153:7                 | imagining 78:15 101:10          |                        | 210:21 223:13           |
|                  |                                                                                                         | 203:5                                            | 76:20 195:23          | <b>immediately</b> 76:20 195:23 | <b>including</b>       | 34:23<br>143:13 187:4   |

[income - interesting]

Page 27

|                     |                                                                                                                                |                      |                                                   |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------|----------------------|---------------------------------------------------|
| <b>income</b>       | 33:19<br>34:13,14 51:2<br>81:22 82:1<br>208:19 210:22<br>211:6                                                                 | <b>individuals</b>   | 65:4 74:1,8<br>75:3,13                            |
| <b>incorporated</b> | 225:12                                                                                                                         | <b>industry</b>      | 13:21<br>34:11 42:25                              |
| <b>increase</b>     | 140:7<br>151:13,14                                                                                                             |                      | 107:4 108:12<br>116:16 120:23                     |
| <b>increased</b>    | 51:18 82:12                                                                                                                    |                      | 157:9 190:18                                      |
| <b>incubator</b>    | 40:2                                                                                                                           | <b>infested</b>      | 122:22                                            |
| <b>index</b>        | 3:1,4 4:1<br>5:1                                                                                                               | <b>influence</b>     | 27:20<br>27:22 114:7<br>131:2 197:16              |
| <b>india</b>        | 55:23                                                                                                                          | <b>influencer</b>    | 96:6<br>102:9 197:13                              |
| <b>indicate</b>     | 66:6                                                                                                                           | <b>informally</b>    |                                                   |
| <b>indicated</b>    | 195:9                                                                                                                          |                      | 105:20                                            |
| <b>indicating</b>   | 152:6 187:19<br>204:9 210:8<br>223:13                                                                                          | <b>information</b>   |                                                   |
| <b>indication</b>   | 185:17                                                                                                                         |                      | 10:19 98:13<br>103:2,17 177:4                     |
| <b>indicted</b>     | 14:20                                                                                                                          |                      | 197:18 198:4                                      |
| <b>individual</b>   | 6:20<br>28:12,19 29:19<br>49:20 62:19<br>90:3 92:3<br>98:21 170:23<br>189:23 191:19<br>201:7 202:12<br>203:17 215:12<br>215:20 | <b>informing</b>     |                                                   |
|                     |                                                                                                                                |                      | 199:23                                            |
|                     |                                                                                                                                |                      | 216:17                                            |
|                     |                                                                                                                                | <b>inhibit</b>       | 11:3                                              |
|                     |                                                                                                                                | <b>initially</b>     | 34:9                                              |
|                     |                                                                                                                                |                      | 46:18 66:18                                       |
|                     |                                                                                                                                |                      | 127:8                                             |
|                     |                                                                                                                                | <b>initiated</b>     | 87:11                                             |
|                     |                                                                                                                                |                      | 165:10                                            |
|                     |                                                                                                                                | <b>initiative</b>    | 74:13                                             |
|                     |                                                                                                                                | <b>inks</b>          | 61:10,17<br>62:6 64:22                            |
|                     |                                                                                                                                | <b>instruction</b>   |                                                   |
|                     |                                                                                                                                | <b>instructions</b>  |                                                   |
|                     |                                                                                                                                | <b>instructs</b>     | 10:11                                             |
|                     |                                                                                                                                | <b>insulted</b>      | 76:21                                             |
|                     |                                                                                                                                | <b>insulting</b>     | 203:5                                             |
|                     |                                                                                                                                | <b>intact</b>        | 173:23                                            |
|                     |                                                                                                                                | <b>intend</b>        | 172:23                                            |
|                     |                                                                                                                                | <b>intense</b>       | 144:23<br>150:2 154:24<br>156:15 157:2            |
|                     |                                                                                                                                | <b>intensity</b>     | 145:5<br>145:13 149:7<br>150:11 153:5,6<br>155:24 |
|                     |                                                                                                                                | <b>intensive</b>     |                                                   |
|                     |                                                                                                                                | <b>intention</b>     | 156:13<br>173:20                                  |
|                     |                                                                                                                                | <b>intentional</b>   |                                                   |
|                     |                                                                                                                                |                      | 147:11                                            |
|                     |                                                                                                                                | <b>intentionally</b> |                                                   |
|                     |                                                                                                                                |                      | 147:16 153:4<br>168:15                            |
|                     |                                                                                                                                | <b>interaction</b>   |                                                   |
|                     |                                                                                                                                |                      | 195:14                                            |
|                     |                                                                                                                                | <b>intercity</b>     | 19:8<br>19:12                                     |
|                     |                                                                                                                                | <b>interest</b>      | 122:6<br>124:25 145:9<br>214:3,5                  |
|                     |                                                                                                                                | <b>interested</b>    | 26:8<br>31:18 39:24<br>45:3 53:3                  |
|                     |                                                                                                                                | <b>institution</b>   |                                                   |
|                     |                                                                                                                                | <b>instructions</b>  |                                                   |
|                     |                                                                                                                                | <b>instructs</b>     |                                                   |
|                     |                                                                                                                                | <b>insulted</b>      |                                                   |

[interim - journey]

Page 28

|                                                                                                         |                                                                  |                                                            |                                                                                     |
|---------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|------------------------------------------------------------|-------------------------------------------------------------------------------------|
| <b>interim</b> 135:19<br>182:9                                                                          | <b>interview</b> 39:12<br>41:9 42:18                             | <b>investigation</b><br>182:20 188:5                       | 170:5,5 172:25<br>176:16                                                            |
| <b>intermediate</b><br>107:4                                                                            | 45:20 48:15<br>50:8 111:11                                       | <b>investigative</b><br>188:19,20<br>189:13                | <b>issued</b> 186:18<br><b>issues</b> 21:1                                          |
| <b>internal</b> 15:5<br>95:24 96:10<br>97:1 98:14<br>101:4 158:1<br>189:2,5,15<br>198:1 217:5,6         | 128:23 129:14<br>129:17,21,24<br>130:2,19<br>131:10,22<br>134:22 | <b>investment</b><br>212:19<br>24:16 46:23<br>106:11,12,14 | 66:17 72:18<br>74:20 101:13<br>102:23 184:19                                        |
| <b>international</b><br>25:7                                                                            | <b>interviewed</b><br>39:10 129:9<br>130:15,24<br>135:23         | <b>invite</b> 44:15<br><b>invited</b> 13:20<br>93:12       | <b>it'd</b> 203:7<br><b>items</b> 7:20<br><b>ivan</b> 2:16                          |
| <b>interning</b><br>121:24                                                                              | <b>interviewing</b><br>130:10                                    | <b>involuntarily</b><br>23:18                              | <b>j</b>                                                                            |
| <b>interrogating</b><br>162:7,9                                                                         | <b>intimate</b> 67:9                                             | <b>involuntary</b><br>150:7                                | <b>j</b> 1:17 2:10 4:3<br>4:4 16:3 47:7                                             |
| <b>interrogator</b><br>150:14                                                                           | <b>intimidated</b><br>147:15                                     | <b>involved</b> 14:4<br>15:16 36:20                        | <b>january</b> 185:6<br><b>jeannine</b> 86:4<br><b>jennifer</b> 89:24<br>90:6 101:8 |
| <b>interrogatories</b><br>5:14 186:9,18<br>198:16                                                       | <b>intrigued</b> 43:3                                            | 38:22 79:16                                                | 103:10 104:3,3                                                                      |
| <b>interrogatory</b><br>187:1,1,6<br>198:11 199:4<br>199:12,15,24<br>201:6,13<br>203:24 204:8<br>209:14 | <b>introduce</b><br>156:25                                       | 96:2,7,14,17<br>97:10,16 98:18                             | 132:20,25<br>189:9,20,24                                                            |
| <b>interrupt</b> 9:6<br>50:1 56:24<br>88:20                                                             | <b>introduced</b><br>172:18 216:5                                | 100:23 102:25<br>106:22 124:25                             | 190:25 196:17<br>198:3 216:15                                                       |
| <b>interrupting</b><br>40:19 66:11                                                                      | <b>introducing</b><br>192:11,14                                  | 133:1 183:6<br>188:18                                      | <b>job</b> 9:10 37:7<br>79:6 105:4,13<br>136:5 152:19                               |
|                                                                                                         | <b>introductory</b><br>159:7                                     | <b>involvement</b><br>122:6 217:1,7                        | 192:13 202:4,6                                                                      |
|                                                                                                         | <b>invest</b> 107:8                                              | <b>involving</b><br>159:19 205:18                          | <b>jobs</b> 207:7                                                                   |
|                                                                                                         | <b>invested</b> 32:12                                            | <b>irrelevant</b><br>190:12                                | <b>john</b> 4:5 47:9                                                                |
|                                                                                                         | <b>investigate</b><br>191:20                                     | <b>issue</b> 37:10<br>67:15,21 87:23                       | <b>johnson</b> 184:21                                                               |
|                                                                                                         | <b>investigated</b><br>190:1                                     | 108:16 163:18                                              | <b>join</b> 163:7<br><b>joint</b> 18:4<br><b>journey</b> 153:24                     |

## [judge - knowledge]

Page 29

|                |                                                                                                                                                                                        |                                |                                  |                                  |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------|----------------------------------|
| <b>judge</b>   | 9:1 88:11<br>106:16                                                                                                                                                                    | 107:17 110:4<br>113:24 123:2   | 39:7 44:3,6,23<br>47:15 48:13    | 156:22 157:7<br>158:15 159:5     |
| <b>judge's</b> | 89:10                                                                                                                                                                                  | 124:20 131:25                  | 53:17 58:6                       | 159:10 161:16                    |
| <b>judges</b>  | 106:15<br>106:21                                                                                                                                                                       | 138:9 139:25<br>140:20 145:7   | 59:14 60:16<br>61:9,13,13        | 162:23 163:20<br>163:21 164:25   |
| <b>july</b>    | 173:7<br>174:18                                                                                                                                                                        | 146:4 149:8<br>150:7 151:3     | 62:8 66:5 69:9<br>70:9 71:11     | 166:3,22 167:1<br>167:3,15,15,16 |
| <b>jump</b>    | 32:3                                                                                                                                                                                   | 152:18 153:4                   | 72:3,6 75:1                      | 168:20 170:14                    |
| <b>june</b>    | 33:25<br>138:8                                                                                                                                                                         | 153:15,20,24<br>154:1,16 157:2 | 76:11,24 77:13<br>78:6 79:2,8,14 | 175:19 176:21<br>176:23 177:23   |
| <b>k</b>       |                                                                                                                                                                                        |                                |                                  |                                  |
| <b>k</b>       | 4:5 47:8<br>61:18                                                                                                                                                                      | 163:18 166:20<br>195:13 197:22 | 79:16 81:1<br>86:1,17,18,20      | 179:19 182:23<br>183:1,4,7,12    |
| <b>keep</b>    | 10:6<br>179:25                                                                                                                                                                         | 203:4 204:15<br>207:19 208:19  | 88:7 89:18<br>93:2 94:14,23      | 184:10 185:3<br>185:10,20        |
| <b>kept</b>    | 30:19<br>67:13 74:22                                                                                                                                                                   | 209:18                         | 96:1,24 97:5                     | 187:25 188:9                     |
| <b>keynote</b> | 32:10                                                                                                                                                                                  | <b>kinds</b> 49:3              | 97:20 98:2,3                     | 188:22 189:20                    |
| <b>kids</b>    | 130:24                                                                                                                                                                                 | 84:16 107:12                   | 98:15,17                         | 190:4,21                         |
| <b>killing</b> | 152:19                                                                                                                                                                                 | 107:25 142:19                  | 100:21,23                        | 191:18 193:11                    |
| <b>kind</b>    | 7:6 10:6<br>13:23 17:8<br>20:21 31:7<br>35:15 40:11<br>41:1 46:5,20<br>50:15 63:4,9<br>63:10 67:12<br>74:5 84:9<br>85:20 86:9<br>94:9 95:12<br>96:25 99:15<br>101:9 105:15<br>106:6,18 | 156:17 194:1<br>200:15         | 104:18 108:6<br>109:4,7 110:3    | 195:25 196:18<br>196:18,24,25    |
|                |                                                                                                                                                                                        | <b>knew</b> 26:7,24            | 110:5,12,21                      | 197:4,8,24                       |
|                |                                                                                                                                                                                        | 43:6,22 44:3                   | 112:5,6 113:10                   | 199:17 200:4,9                   |
|                |                                                                                                                                                                                        | 74:11,15,20                    | 113:12 114:4                     | 200:10 202:25                    |
|                |                                                                                                                                                                                        | 85:23 162:5                    | 115:10 117:15                    | 203:1 208:17                     |
|                |                                                                                                                                                                                        | 188:2,19                       | 119:8 120:7                      | 210:16,25                        |
|                |                                                                                                                                                                                        | 189:11                         | 122:14 125:16                    | 211:1,3 213:21                   |
|                |                                                                                                                                                                                        | <b>knock</b> 125:13            | 125:17 128:8                     | 213:23 214:8                     |
|                |                                                                                                                                                                                        | <b>know</b> 8:4 9:3            | 131:2,4,22                       | 215:5                            |
|                |                                                                                                                                                                                        | 9:18 14:17                     | 132:2 134:6                      | <b>knowing</b> 122:2             |
|                |                                                                                                                                                                                        | 16:17 20:1                     | 135:15 136:1                     | 189:24                           |
|                |                                                                                                                                                                                        | 22:8 23:6                      | 140:19 142:19                    | <b>knowledge</b>                 |
|                |                                                                                                                                                                                        | 26:20 28:8                     | 143:25 144:13                    | 89:14 124:20                     |
|                |                                                                                                                                                                                        | 31:10 32:22                    | 145:3,8,13                       | 124:24 136:15                    |
|                |                                                                                                                                                                                        | 37:2 38:23                     | 153:11,19                        | 138:15 140:8                     |

**[knowledge - level]**

Page 30

|                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 141:1,6 142:10<br>142:15 188:17<br>200:21 206:2<br>209:5<br><b>known</b> 188:2<br>189:11,16<br>214:21<br><b>knows</b> 64:15 | <b>largest</b> 127:6<br><b>larry</b> 61:10,16<br>62:6 64:22<br>65:4 74:1<br><b>lastly</b> 218:12<br>218:13<br><b>late</b> 170:25<br>182:4,6,15<br><b>latest</b> 89:15<br>91:21 180:21<br><b>launch</b> 32:11<br><b>launched</b><br>207:22<br><b>launching</b><br>206:24 208:6<br><b>lausche</b> 1:17<br><b>law</b> 209:6<br><b>lawful</b> 6:22<br><b>lawsuit</b> 208:23<br><b>layman's</b><br>140:14<br><b>leadership</b><br>23:13 24:24<br>25:13 26:23<br>29:14 38:19<br>40:2 43:24<br>45:13 76:12,20<br>114:8,10 137:7<br>138:12 157:23<br>159:7 161:9<br>195:22,23<br>204:22<br><b>leads</b> 13:12<br>14:6 32:16 | 88:18<br><b>learn</b> 50:1 71:8<br>73:8 137:5<br>170:20 202:5<br><b>learner</b> 141:2<br><b>learning</b> 19:11<br>25:14 32:5<br>33:2,6 38:15<br>136:14 140:8<br>140:17 141:10<br>142:6,17 151:2<br>157:9 170:18<br>206:16 207:18<br>208:5<br><b>leave</b> 23:11<br>25:21 29:21<br>30:1,9 31:6<br>95:14 118:20<br><b>leaving</b> 76:8<br>182:7,24<br>208:23<br><b>lecturer</b> 34:9<br>34:13,14,17<br>35:16 36:18<br>37:7 39:10<br>45:22 48:5<br>59:25 60:21,23<br>61:6,15 63:24<br>63:24 69:24<br>94:18 101:21<br>102:17 105:2<br>111:12 121:12<br>127:2 136:6,22<br>127:2 136:6,22<br>197:10 214:17 | 214:23<br><b>lecturers</b> 60:16<br>63:7 111:15<br><b>left</b> 19:16 20:3<br>26:25 52:20<br>76:2 89:21<br><b>legacy</b> 26:20<br><b>legal</b> 8:3 12:16<br>15:6 88:23<br>201:2 209:6<br>223:1 226:1<br><b>length</b> 48:11<br><b>lesson</b> 156:7<br><b>letter</b> 4:4 11:20<br>47:7 48:2,7,10<br>49:6 50:18<br>56:21 58:10,19<br>59:24 60:25<br>68:14,22 69:21<br>70:2,25 71:3,5<br>75:22 82:16<br>83:19 107:21<br>115:22 119:19<br>120:15 123:21<br>126:5 216:7,16<br>223:19<br><b>letters</b> 11:22<br>60:5 117:19<br><b>letting</b> 72:11<br>80:7<br><b>level</b> 12:8 25:17<br>28:19 45:12<br>54:9 105:5<br>111:5,6,9 |
|-----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

[level - lount]

Page 31

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 112:7 127:8<br>140:25 156:21<br><b>levels</b> 122:24<br>149:9,10<br>210:14<br><b>leveraging</b><br>36:21 38:5<br><b>license</b> 36:25<br><b>licensed</b> 36:22<br>36:24 38:5,11<br>38:12 137:9<br>160:25<br><b>licensure</b> 37:6<br><b>lieu</b> 31:10<br><b>life</b> 15:21 95:8<br>95:12 140:24<br>162:8<br><b>likely</b> 48:20<br><b>likes</b> 13:24,25<br><b>line</b> 19:24<br>59:17 110:5,8<br>110:10 117:14<br>140:5 152:20<br>156:23 166:7,9<br>167:4 203:3<br>216:12 219:16<br>223:13 225:7<br>226:3<br><b>linked</b> 195:10<br><b>list</b> 12:23 81:25<br>107:24 129:6,7<br>129:14,19<br>136:18 170:1<br>188:22 189:1 | 197:24<br><b>listed</b> 83:20,21<br>89:23 98:21<br>101:7 192:7<br>225:7,17<br><b>listen</b> 150:21<br><b>listening</b> 143:9<br>153:21<br><b>listing</b> 225:7<br><b>lists</b> 81:16<br>116:2,14<br>120:21 138:22<br><b>literally</b> 148:9<br>151:5<br><b>literature</b><br>136:7,11<br><b>little</b> 19:17<br>33:17 36:8<br>47:23 86:8<br>94:21 109:1,1<br>109:11 133:13<br>144:12 145:14<br>153:22 156:1<br>166:23 170:8<br>183:25 196:23<br>207:14<br><b>living</b> 30:4<br><b>load</b> 46:17<br>48:22 49:3<br>116:21<br><b>loads</b> 66:19<br><b>lockdown</b><br>130:20 132:1 | <b>locked</b> 84:7<br><b>long</b> 15:22<br>17:19 18:10<br>19:5,13 20:4<br>23:8 83:9,13<br>175:23 176:16<br><b>longer</b> 52:2,8<br>53:25 107:24<br><b>look</b> 47:15<br>50:24 74:17<br>79:9 89:9 97:2<br>108:22 129:25<br>136:18 173:19<br>213:14<br><b>looked</b> 82:2<br>95:11 110:18<br>114:3 136:13<br>172:18<br><b>looking</b> 21:4<br>25:23 31:21<br>34:9 49:5 53:1<br>79:23 83:9<br>89:5 108:17<br>150:11 153:14<br>155:13,22<br>173:25 207:17<br>209:11,23<br>218:25<br><b>looks</b> 25:6<br>26:13 27:7<br>30:19,22 49:6<br>116:3 134:14<br>168:10 180:24 | <b>loop</b> 110:4<br><b>losing</b> 79:6<br>192:13<br><b>loss</b> 210:22<br><b>lost</b> 172:5<br>202:3,6<br><b>lot</b> 29:16 43:16<br>43:16 48:19<br>55:21 61:2<br>66:22 74:19<br>79:8,8 85:21<br>94:23 96:22<br>106:5 107:12<br>107:25 110:14<br>112:15 124:18<br>124:22 128:14<br>128:15 130:16<br>142:14 143:5<br>145:9,10,16<br>146:19 148:8<br>157:16 168:16<br>180:1,3 202:3<br>210:20 211:13<br>211:15<br><b>lount</b> 4:19,21<br>4:22 5:11<br>60:13,17 62:5<br>62:10,11,22<br>65:20,24 70:5<br>71:15,16 72:14<br>73:19 75:2,13<br>75:22 83:21<br>86:15 89:23<br>92:24,24 93:3 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

[lount - mark]

Page 32

|                       |                     |                     |                      |
|-----------------------|---------------------|---------------------|----------------------|
| 93:9 95:17            | 126:22              | 130:2 145:21        | <b>managed</b>       |
| 96:5 109:4            | <b>lying</b> 131:21 | 152:17 160:21       | 190:18               |
| 111:21 112:10         | <b>m</b>            | 161:1 166:4         | <b>management</b>    |
| 113:21,25             | <b>m</b> 42:7,8     | 168:22 172:8        | 17:17 23:5           |
| 115:5 118:7,21        | 130:11              | 172:13 174:6,9      | 24:9,13 27:9         |
| 120:1,18              | <b>macro</b> 155:22 | 176:10,19           | 27:16 38:23          |
| 123:20 124:8          | 155:22              | 197:17,18           | 41:14,15,22          |
| 124:23 125:4          | <b>madam</b> 223:10 | <b>makes</b> 9:9    | 42:4 43:8 44:5       |
| 128:20 129:4          | <b>made</b> 7:20    | 31:24 80:16         | 45:18 62:13          |
| 132:18 133:19         | 30:10 35:1          | 132:13 189:10       | 66:13 105:6          |
| 133:23 134:15         | 50:9 74:12          | <b>makheel</b> 96:3 | 108:12,13            |
| 145:17 171:2          | 77:22 78:5          | <b>makhija</b> 1:8  | 116:5 127:5          |
| 177:15 178:2          | 114:23 128:8        | 4:5,9,11,13,15      | 155:14 206:20        |
| 179:2 180:22          | 129:1 159:1         | 47:8 49:18          | <b>manager</b> 34:8  |
| 181:8,13,20           | 174:3 176:5,20      | 57:22 59:8          | 39:14 50:9           |
| 182:1,2,12            | 197:3 198:5         | 69:2 75:25          | 64:9 76:15           |
| 191:8,13,23           | 200:6 206:10        | 78:21 80:2,21       | 92:11,18 102:4       |
| 192:22 193:6          | 212:15 224:7        | 83:20,20 86:15      | <b>managing</b> 21:8 |
| 194:8,23              | <b>mail</b> 71:3,4  | 89:23 96:4          | 139:3                |
| 212:11 216:14         | <b>main</b> 87:7    | 98:21,23            | <b>mandatory</b>     |
| 217:11 218:4          | 196:6,8             | 100:10 181:16       | 35:2                 |
| 218:16,23             | <b>major</b> 18:25  | 181:17 182:3        | <b>manufacturing</b> |
| 219:1,6               | 53:2 74:12          | 191:5,23 194:8      | 19:20                |
| <b>lount's</b> 134:12 | 162:6               | 212:11,15,15        | <b>marbles</b> 158:3 |
| <b>love</b> 43:16     | <b>majority</b>     | 216:10 223:6        | <b>march</b> 87:1    |
| 74:21 167:8           | 105:10              | 224:3 225:3         | 123:17               |
| <b>loving</b> 2:10    | <b>majors</b> 116:8 | <b>making</b> 50:17 | <b>margin</b> 14:2   |
| 6:19                  | <b>make</b> 21:22   | 101:5 131:20        | <b>mark</b> 1:4,13   |
| <b>low</b> 110:14     | 35:8,9 36:2         | 196:9 208:14        | 3:5 4:3,4,6,8,10     |
| 121:7                 | 42:13 44:17         | 208:17              | 4:12,14,18,20        |
| <b>lower</b> 122:15   | 88:19,19            | <b>man</b> 79:18    | 4:22 5:9,11 6:4      |
| <b>lpa</b> 2:3        | 114:11 126:2        | <b>manage</b> 122:5 | 6:5,14,17,22         |
| <b>lunch</b> 66:24    | 128:24 129:16       | 155:17,20           | 7:2 16:3 35:23       |
| 67:1 125:3            |                     |                     | 47:7 54:22           |

[mark - member]

Page 33

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 56:1 57:21<br>59:2,7 65:12<br>69:1 75:11<br>76:9 80:20<br>83:3,6,7,17<br>94:1 114:21<br>115:4 118:12<br>119:25 126:7<br>127:1 131:3<br>133:24 164:18<br>172:6 173:3<br>177:14,21<br>178:10 194:12<br>196:5,24 201:4<br>205:22 209:9<br>216:1,4 219:12<br>221:9 223:6,8<br>224:3,4,9<br>225:3,4,13<br>226:20<br><b>marked</b> 4:2 5:2<br>16:4,8 47:10<br>54:24 55:3<br>57:23 59:9,13<br>69:3,7 80:22<br>80:25 88:2,6<br>104:13,17<br>115:6 120:2,6<br>134:1,5 137:23<br>143:19,23<br>158:9,13<br>164:19,23<br>177:17,22<br>186:11,16 | <b>market</b> 100:20<br>101:2 105:24<br>139:6<br><b>marysville</b> 53:4<br><b>mask</b> 168:5,12<br>168:15<br><b>masking</b> 170:5<br><b>masks</b> 170:6,9<br><b>mason</b> 33:15<br><b>mass</b> 19:25<br><b>massachusetts</b><br>20:16 162:4<br><b>master's</b> 18:7<br><b>material</b> 36:21<br>36:22,24 38:5<br>38:13,15 43:7<br>45:6 51:17<br>117:1 137:9<br>149:25 156:10<br>160:25 161:13<br>161:19 164:1<br>165:18 166:18<br>167:6,14 194:5<br>195:11 198:6<br>202:23<br><b>materials</b> 137:4<br><b>matter</b> 6:5 13:7<br>13:9 26:1<br>67:20 74:11<br>112:18 169:22<br><b>matters</b> 163:19<br><b>mature</b> 149:6<br><b>mba</b> 28:3<br>157:17 | <b>mcconnell</b> 86:3<br><b>mckinsey</b><br>138:22,25<br>139:2,3<br><b>mclendon</b><br>89:24 90:6<br>101:8,16,20<br>102:7 103:10<br>132:21 189:9<br>189:21,24<br>190:25 196:17<br>198:3 216:15<br><b>mean</b> 12:2,25<br>13:15 20:15<br>26:9 29:20<br>38:10 42:4<br>50:12 52:4,24<br>54:6 77:11<br>95:1 96:4<br>100:15 102:18<br>107:20 113:3<br>117:5 118:8,10<br>123:25 136:20<br>141:18 148:19<br>148:20 153:9<br>156:16 165:25<br>166:12 167:7<br>167:10 170:19<br>175:3 180:8<br>182:1 188:10<br>192:14 193:10<br>194:22,24<br>196:11 197:15<br>200:7,14 | 202:19 203:4<br>219:1<br><b>meaningful</b><br>107:17<br><b>means</b> 8:2,4,20<br>8:24<br><b>meant</b> 195:18<br>196:2<br><b>meat</b> 149:18<br><b>mechanism</b><br>164:8<br><b>medical</b> 10:19<br>170:13<br><b>medication</b><br>10:20<br><b>meet</b> 7:5 45:21<br>63:2 66:15<br>67:16,22 72:12<br>73:15 93:9<br>107:7 114:1<br>118:7 181:24<br>181:25 193:2<br>193:12<br><b>meeting</b> 54:15<br>62:23 67:10<br>68:2 70:4 74:8<br>78:18 80:2<br>125:14,16<br>207:4<br><b>meetings</b> 39:23<br>200:14<br><b>meets</b> 218:24<br><b>member</b> 13:10<br>108:17 113:7,9 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## [members - moving]

Page 34

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>members</b> 13:17<br>100:15 111:2<br>124:4 188:8<br><b>memo</b> 4:6,8,10<br>4:12,14,18,20<br>54:22 57:21<br>59:7 69:1<br>80:20 97:19<br>115:4 119:25<br><b>memorial</b><br>22:14<br><b>memory</b> 10:24<br>11:4<br><b>men</b> 95:10<br>147:14,17<br>210:17<br><b>mental</b> 11:2<br><b>mention</b> 11:23<br>53:23 87:17<br><b>mentioned</b> 9:24<br>47:3 61:20<br>62:10 63:8<br>72:13,14 75:18<br>78:20 146:3<br><b>merged</b> 51:9<br><b>merit</b> 81:7,8,10<br>81:23 82:16<br><b>message</b> 62:9<br>63:5 166:5<br><b>met</b> 33:13 40:9<br>40:13 50:15<br>64:10 93:10<br>106:3 219:2 | <b>metadata</b><br>173:23 174:16<br><b>method</b> 108:6,8<br>141:11,15<br>142:4 146:4,14<br>147:19 181:5<br><b>methodology</b><br>140:14 142:17<br>145:25<br><b>methods</b> 114:7<br>141:13 142:19<br>146:23 147:8<br>160:7 169:3<br>194:16<br><b>mhr</b> 41:25<br>92:15 95:17<br>116:3,11<br>123:24 124:2,7<br><b>mhr3100</b><br>120:22<br><b>mhr7236</b><br>120:22<br><b>mia</b> 95:11<br><b>michael</b> 2:10<br><b>michigan</b> 33:14<br>214:4<br><b>micro</b> 155:22<br><b>microphone</b><br>6:16 172:3<br><b>mid</b> 93:23<br><b>middle</b> 36:1<br>50:15 139:6<br><b>midlevel</b> 13:20 | <b>midwest</b><br>223:17 226:1<br><b>mike</b> 42:21<br><b>mind</b> 45:23<br>117:13 151:22<br><b>mindful</b> 168:22<br>180:19<br><b>mine</b> 11:18<br>172:5<br><b>minimize</b> 65:14<br><b>minus</b> 179:21<br><b>minute</b> 12:24<br>70:4 71:14<br>72:10 95:3<br>171:17 211:11<br><b>minutes</b> 10:1<br>71:24 79:4,5<br>148:10 159:8<br><b>mirroring</b><br>205:13<br><b>mispronounce</b><br>139:24<br><b>misunderstan...</b><br>37:4<br><b>mixed</b> 149:5,11<br><b>mode</b> 24:19<br><b>module</b> 152:14<br>156:7<br><b>mom</b> 26:1<br><b>moment</b> 16:16<br>47:14 55:4<br>97:1 154:24<br>157:2 | <b>moments</b><br>138:17 139:22<br>151:18 156:14<br><b>monday</b> 166:11<br><b>money</b> 21:22<br>32:15,23 50:17<br>65:12 106:20<br>208:14 214:20<br><b>month</b> 50:22<br>82:10,11 85:12<br>184:10<br><b>monthly</b> 107:7<br><b>months</b> 50:8,22<br>85:13 193:3<br><b>morse</b> 1:20<br>221:6 222:14<br><b>moscow</b> 43:5<br><b>mother</b> 132:7<br><b>motions</b> 7:22<br><b>motivated</b><br>212:13<br><b>motivator</b> 26:6<br><b>motors</b> 55:24<br><b>mountain</b><br>215:4<br><b>mouth</b> 168:11<br>168:13 170:15<br><b>move</b> 23:15<br>133:6 146:21<br>156:24 167:17<br>193:15 210:24<br><b>moving</b> 14:19<br>60:14,18 167:5 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## [multiple - notification]

Page 35

|                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>multiple</b> 63:23<br>73:14 75:19,20<br>84:1 85:11,13<br>129:17,18<br>133:1 157:25<br>159:3 160:23<br>203:1<br><b>multiyear</b><br>48:17<br><b>murithi</b> 130:11 | <b>nature</b> 93:13<br><b>nay</b> 11:24<br><b>near</b> 17:8 52:14<br>78:23 79:1,3<br>97:8,8 206:25<br>208:6<br><b>necessarily</b><br>139:12<br><b>necessary</b> 9:23<br><b>need</b> 10:2,12<br>43:14,16 68:17<br>87:7 94:6<br>102:24 112:4<br>119:12 135:21<br>142:20 155:12<br>155:20 166:21<br>171:23,24<br>174:5 177:5<br>184:19 195:3<br>203:8<br><b>needed</b> 49:2<br>79:20 101:12<br>133:16 195:21<br>213:12<br><b>needing</b> 45:21<br><b>needs</b> 10:2<br>48:20<br><b>negative</b><br>185:22<br><b>negotiated</b> 31:4<br><b>negotiating</b><br>27:19 94:1<br><b>negotiations</b><br>93:22 | <b>neither</b> 118:25<br>182:18<br><b>neutralize</b><br>150:2 155:1<br><b>never</b> 108:10<br>108:14 110:17<br>113:19 119:2<br>125:19 166:19<br>168:22 176:23<br>193:22 194:1<br><b>new</b> 25:23 52:6<br>53:9 60:13<br>92:23 133:9<br>135:25<br><b>newly</b> 31:20<br><b>newspaper</b><br>74:20<br><b>nice</b> 7:4 211:1<br><b>niggers</b> 152:17<br><b>night</b> 183:13<br><b>nine</b> 15:23 50:8<br>50:22,22<br><b>ninety</b> 54:8<br><b>noise</b> 74:19<br><b>noises</b> 131:20<br><b>nominating</b><br>11:20 107:21<br><b>non</b> 14:9 49:9<br>75:4<br><b>noni</b> 130:11<br>131:11 134:15<br>136:1<br><b>nonrenewal</b><br>69:14,21 71:6 | 71:9 75:21<br>80:11 83:19<br>84:25 85:8<br>87:18 103:13<br>182:17 194:7<br>195:10 197:22<br><b>nontenured</b><br>63:20,23<br><b>nonverbal</b><br>167:12 170:16<br>203:11,22,23<br><b>nonverbally</b><br>147:5<br><b>nonverbals</b><br>153:20 168:7<br><b>normal</b> 9:16<br>10:22 35:25<br><b>nos</b> 4:5 5:12<br><b>notarized</b><br>223:14<br><b>notary</b> 221:6<br>222:14 223:25<br>224:10,18<br>225:15,23<br>226:23<br><b>note</b> 163:24<br>179:25 200:25<br>223:12<br><b>notes</b> 74:5<br>114:11 117:19<br><b>notice</b> 69:13,14<br>71:6<br><b>notification</b><br>69:21 |
| <b>n</b>                                                                                                                                                             | <b>n</b> 7:11 61:18<br>159:21 185:23<br>193:23<br><b>name</b> 7:5,10<br>14:11 24:1<br>40:9 53:6 61:8<br>61:21 75:7<br>89:10 110:10<br>130:10 174:18<br>184:20 188:21<br>219:17 223:6<br>224:3,4,15<br>225:3,4,21<br><b>named</b> 215:11<br>221:9<br><b>names</b> 6:9 62:8<br>83:10 116:20<br>216:25<br><b>nationwide</b><br>44:20<br><b>natural</b> 9:17<br>10:6 41:1                                                                                                                                                                                                                                | <b>ninety</b> 54:8<br><b>noise</b> 74:19<br><b>noises</b> 131:20<br><b>nominating</b><br>11:20 107:21<br><b>non</b> 14:9 49:9<br>75:4<br><b>noni</b> 130:11<br>131:11 134:15<br>136:1<br><b>nonrenewal</b><br>69:14,21 71:6                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

[notified - okay]

Page 36

|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            |                     |                                                                                                                        |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------------------------------------------------------------------------------------------------------------|
| <b>notified</b>  | 75:21<br>84:25 182:16<br>194:6                                                                                                                                                                                                                                                                                                                                                              | 57:9 108:21<br>110:13 115:5<br>117:3 120:1                                                                                                                                                                                                                                 | <b>occasion</b>     | 133:20 204:2                                                                                                           |
| <b>notifying</b> | 59:24                                                                                                                                                                                                                                                                                                                                                                                       | 133:25 177:16                                                                                                                                                                                                                                                              | <b>occasionally</b> | 100:24 102:19                                                                                                          |
| <b>november</b>  |                                                                                                                                                                                                                                                                                                                                                                                             | 225:7                                                                                                                                                                                                                                                                      |                     | 159:4 169:19                                                                                                           |
|                  | 84:23                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                            | <b>occur</b>        | 139:8                                                                                                                  |
| <b>number</b>    | 4:2,7,9<br>4:11,13,15 5:2<br>5:4,9 6:6 14:14<br>17:1 24:2,24<br>30:15 44:15<br>46:21,24 54:23<br>57:2,22 59:8<br>65:15,19 69:2<br>76:25 77:4<br>79:16 80:21<br>86:2 89:22<br>90:10,11 101:1<br>102:19 104:13<br>107:4 109:3<br>112:15 125:11<br>129:21 136:25<br>137:23 151:21<br>164:19 165:8<br>168:21 182:11<br>198:16 199:10<br>201:10 206:12<br>206:13 212:9<br>213:24 223:7<br>223:13 | <b>o</b>                                                                                                                                                                                                                                                                   | <b>occurred</b>     | 139:8<br>166:13 181:14<br>182:21                                                                                       |
|                  | <b>numbered</b>                                                                                                                                                                                                                                                                                                                                                                             | <b>oath</b> 7:16 8:3,9<br>8:13 12:15<br><b>ob</b> 116:3<br><b>obhr</b> 116:7<br><b>object</b> 10:10<br>59:1 88:22<br>118:4 196:4<br><b>objection</b> 14:25<br>21:25 42:20<br>88:18 89:17<br>98:10 114:20<br>187:6 190:3<br>200:1,25<br>203:18 204:4<br>204:12,13<br>209:15 | <b>october</b>      | 68:5                                                                                                                   |
|                  | <b>numbers</b>                                                                                                                                                                                                                                                                                                                                                                              | <b>objections</b><br>209:13                                                                                                                                                                                                                                                | <b>od</b>           | 139:6                                                                                                                  |
|                  | 91:10                                                                                                                                                                                                                                                                                                                                                                                       | <b>objectives</b><br>136:14                                                                                                                                                                                                                                                | <b>offensive</b>    | 203:3                                                                                                                  |
|                  | 4:19<br>4:21,23 47:9                                                                                                                                                                                                                                                                                                                                                                        | <b>obligation</b><br>36:25                                                                                                                                                                                                                                                 | <b>offer</b>        | 31:20,23<br>48:2,3 50:10                                                                                               |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             | <b>observe</b> 108:14                                                                                                                                                                                                                                                      | <b>offered</b>      | 48:10<br>135:22 214:8                                                                                                  |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             | <b>obtuse</b> 140:3                                                                                                                                                                                                                                                        | <b>offers</b>       | 214:1,6                                                                                                                |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             | <b>obviously</b> 8:25<br>96:3                                                                                                                                                                                                                                              | <b>office</b>       | 1:17 7:6<br>12:18 13:6<br>21:3 26:20                                                                                   |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            | <b>officer</b>      | 40:10,10 62:1<br>62:2 67:13<br>95:3 103:6<br>125:12 160:18<br>183:2,10,14,15<br>205:3 222:6                            |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            | <b>official</b>     | 22:20<br>150:19                                                                                                        |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            | <b>officially</b>   | 49:2<br>224:15 225:21                                                                                                  |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            |                     | 31:1<br>48:18 99:5<br>100:4 119:20<br>207:22                                                                           |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            |                     | 13:13 15:24<br>19:23 21:21<br>46:8 88:15<br>116:24 125:8<br>132:6,16<br>135:12 151:24<br>154:18 187:10<br>193:22 201:8 |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            |                     | <b>ohio</b> 1:1,18 2:5<br>2:9,11 6:5,8,20<br>26:3 106:7<br>221:2,7 222:7<br>222:15 223:2                               |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            |                     | <b>ohioago.gov</b><br>2:12,12                                                                                          |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            |                     | <b>oie</b> 185:17                                                                                                      |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            |                     | 191:1,6,9,21                                                                                                           |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            |                     | <b>okay</b> 7:12 8:14<br>10:18 11:2,6<br>12:3,7,14                                                                     |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            |                     | 13:22 14:13,15<br>14:19 15:2,4<br>15:18 16:20<br>17:3,6,10,19<br>18:8,14 19:1<br>20:11,14,18                           |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            |                     | 21:14,16,21<br>22:2,10,12<br>23:4,8,11,20<br>24:22 25:5,21                                                             |
|                  |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            |                     | 26:4,9,12 28:2<br>28:13,20 29:8<br>29:21,24 30:17<br>32:3,17,21                                                        |

[okay - order]

Page 37

|                |                |                |                        |
|----------------|----------------|----------------|------------------------|
| 33:12,16,21,22 | 106:8,24       | 159:11 160:1   | 215:1,11,23,25         |
| 34:2,16 35:22  | 109:18 112:20  | 162:3,10,11    | 216:9 217:9            |
| 36:13 37:8,19  | 113:16 115:1   | 163:12,23      | 218:12 219:10          |
| 38:4 39:9      | 115:12 116:1   | 164:22 165:2   | 219:19,20              |
| 40:13 41:8     | 117:8 118:24   | 166:16 168:1,3 | <b>okay's</b> 36:1     |
| 42:6,15 43:10  | 119:4,17 120:5 | 169:8,13,16,21 | <b>old</b> 93:24 94:19 |
| 46:6 47:1,13   | 120:8,20       | 170:4,21 171:8 | 142:10                 |
| 47:17 49:23    | 122:18 123:10  | 171:16,18      | <b>older</b> 20:1      |
| 50:5,18 51:19  | 125:1,9,20     | 172:7,12 173:4 | 207:15                 |
| 51:22 53:13    | 126:19 127:14  | 174:11,20      | <b>once</b> 9:8 40:9   |
| 55:2,5,14,18   | 127:25 129:15  | 175:17 176:12  | 40:11 102:18           |
| 56:8,10 57:15  | 129:20 130:9   | 177:5,6,24     | 108:10,14              |
| 58:9,21 59:15  | 130:22 131:10  | 179:6,17       | 135:20 206:17          |
| 59:16 62:4,15  | 132:8,20 133:5 | 180:12 181:6   | <b>ones</b> 11:14 61:4 |
| 65:3,9,23 66:9 | 133:8,12 134:4 | 181:21,25      | <b>online</b> 110:8    |
| 68:6,13 69:6,8 | 134:5,7,11,14  | 182:20 184:13  | <b>open</b> 39:18      |
| 69:12 71:21    | 135:5,10 136:1 | 185:4,14 186:1 | 164:2 205:3            |
| 72:13 73:18    | 136:4,17,21    | 186:16 187:13  | <b>opened</b> 64:16    |
| 75:2,16,18     | 137:11 138:1,9 | 187:22,23      | <b>operationally</b>   |
| 76:6 77:25     | 139:8,11,14,17 | 189:5,9 190:10 | 100:17                 |
| 78:17,20 80:1  | 139:23 140:11  | 190:13,24      | <b>opinion</b> 88:12   |
| 80:15 81:3     | 140:16 141:3   | 191:12,18      | 88:14 89:7             |
| 82:14,18 83:17 | 141:13 142:23  | 193:15 194:3   | 94:20 96:18            |
| 84:20 85:2     | 142:25 143:10  | 197:6 198:11   | 108:18                 |
| 87:4,20 88:5,9 | 144:2,16       | 199:18 200:13  | <b>opportunistic</b>   |
| 89:19,21 90:6  | 145:23 146:17  | 200:18 201:8   | 23:14                  |
| 90:9 91:23     | 147:21 148:18  | 203:13,18,23   | <b>opportunity</b>     |
| 92:2,14,20     | 148:24 149:12  | 204:10 205:8   | 27:1 215:7             |
| 93:2,8 95:16   | 149:21 150:16  | 207:7,19       | <b>opposed</b> 156:15  |
| 98:16 100:3,9  | 151:6,11 152:4 | 208:13,25      | 208:18                 |
| 101:7,19       | 152:24 154:1   | 209:11 211:12  | <b>options</b> 98:1    |
| 102:11 103:4   | 156:19 157:3   | 211:19 212:3,7 | <b>order</b> 45:14     |
| 104:16,19,20   | 157:18 158:14  | 212:23 213:7   | 145:22                 |
| 104:25 105:14  | 158:17,18,23   | 213:16 214:22  |                        |

[ordered - participate]

Page 38

|                       |            |                    |                   |                |                    |
|-----------------------|------------|--------------------|-------------------|----------------|--------------------|
| <b>ordered</b>        | 220:12     | 160:20 164:19      | <b>overseeing</b> | 23:1           | <b>pandemic</b>    |
| <b>ordinarily</b>     |            | 170:5 173:18       | <b>own</b>        | 26:22          | 37:17              |
| 183:5                 |            | 177:17 178:1       |                   | 36:21 38:10    | <b>panel</b>       |
| <b>organization</b>   |            | 183:3 191:6        |                   | 44:24 77:10,11 | 106:15             |
| 75:9                  |            | 206:7,11           |                   | 97:25 136:22   | 106:21             |
| <b>organizational</b> |            | 208:16,20          |                   | 137:13 161:15  | <b>paneled</b>     |
| 17:18 18:7            |            | <b>osu's</b>       | 37:24             | 170:1 197:11   | 106:11             |
| 21:1 27:14            |            | 86:13              |                   | 205:2 206:22   | <b>pants</b>       |
| 28:9 41:21            |            | <b>osu.edu</b>     | 5:8               |                | <b>paper</b>       |
| 139:7 191:3           |            | 134:9 164:17       |                   |                | 49:3               |
| <b>original</b>       | 173:21     | <b>outlier</b>     | 85:20             |                | <b>paragraph</b>   |
| 173:22 174:24         |            | <b>outreach</b>    |                   |                | 49:5 50:7          |
| 220:12                |            | 108:17             |                   |                | 118:2 152:9,13     |
| <b>originally</b>     |            | <b>outside</b>     | 35:7              |                | 178:15 187:3       |
| 20:15                 |            | 44:18 47:3         |                   |                | 187:21 188:1       |
| <b>osu</b>            | 4:6,7,9,11 | 86:14 100:21       |                   |                | 198:13,18,20       |
| 4:13,15,17,19         |            | 102:19 124:11      |                   |                | 198:23 199:6,9     |
| 4:21,24 5:4,10        |            | 147:22 148:2       |                   |                | 199:13,22,25       |
| 5:12 13:18            |            | 158:1 172:1        |                   |                | 200:19 218:19      |
| 33:3,23,24            |            | 215:19             |                   |                | <b>parentheses</b> |
| 34:7,24 35:5          |            | <b>outsourced</b>  |                   |                | 117:4              |
| 37:23 38:12           |            | 108:20             |                   |                | <b>paris</b>       |
| 39:22,25 40:5         |            | <b>overall</b>     | 51:2,11           |                | 122:25             |
| 47:10 50:13           |            | 121:9,10           |                   |                | <b>part</b>        |
| 51:23 52:21           |            | 217:21             |                   | 7:21 37:6      | 40:4 51:9,11       |
| 54:24 57:1,7,9        |            | <b>overbroad</b>   |                   |                | 72:6 92:6          |
| 57:23 59:9            |            | 187:7              |                   |                | 116:21 121:17      |
| 69:3 80:22            |            | <b>overloading</b> |                   |                | 127:7 136:5        |
| 81:20 92:5            |            | 108:1              |                   |                | 137:4 151:12       |
| 101:11 102:1,5        |            | <b>oversaw</b>     | 25:11             |                | 163:16 165:18      |
| 104:13 110:23         |            | 25:14 29:13        |                   |                | 165:22,22          |
| 115:6 120:2           |            | <b>oversee</b>     | 19:21             |                | 167:13 168:6       |
| 133:25 134:9          |            | 108:11             |                   |                | 168:17 182:23      |
| 137:23 160:19         |            |                    |                   |                | 193:19 209:2       |
|                       |            |                    |                   |                | 209:12 225:9       |
|                       |            |                    |                   |                | <b>participate</b> |
|                       |            |                    |                   |                | 14:9 52:3,25       |

[participating - petrov]

Page 39

|                      |                    |                |                  |                     |
|----------------------|--------------------|----------------|------------------|---------------------|
| <b>participating</b> | <b>peers</b>       | 61:2           | 108:9,11,13      | <b>personally</b>   |
| 51:25                |                    | 112:16 205:1   | 110:24 111:9     | 25:25 150:23        |
| <b>particular</b>    | <b>penalty</b>     | 8:21           | 115:19,24        | 162:5 165:16        |
| 67:19 202:14         | <b>pending</b>     | 10:5           | 117:18 208:4     | 181:4 191:18        |
| <b>particularly</b>  | <b>pension</b>     | 51:18          | 219:2            | 196:18 224:11       |
| 43:2 67:15,20        | <b>people</b>      | 21:18          | <b>period</b>    | 225:15              |
| 147:12,13            |                    | 31:18 33:13    | 44:2 50:23       | <b>personnel</b>    |
| <b>parties</b>       |                    | 52:4 62:8 66:1 | 51:14 62:17      | 19:21 90:1          |
| <b>partner</b>       |                    | 75:1 96:7      | 79:4 82:7,8      | <b>perspective</b>  |
| 101:10               |                    | 97:15 98:18    | 106:3 135:22     | 136:16 140:18       |
| 102:6 139:2,16       |                    | 100:7 113:5,6  | <b>perjury</b>   | 141:1               |
| 148:12               |                    | 113:13 124:22  | <b>permanent</b> | <b>perspectives</b> |
| <b>partnership</b>   |                    | 133:1 140:5    | 208:19           | 24:9,10 184:5       |
| 39:25                |                    | 143:5 145:17   | <b>permit</b>    | <b>peter</b>        |
| <b>parts</b>         |                    | 146:18 147:5   | 48:16            | 4:7 54:23           |
| <b>party</b>         |                    | 149:6 153:18   | <b>person</b>    | 55:20,20,22         |
| 67:7                 |                    | 153:21 167:6   | 41:3             | 99:24               |
| 222:3                |                    | 167:12 170:17  | 54:18,19 61:19   | <b>petitioned</b>   |
| <b>passive</b>       |                    | 197:25 207:16  | 63:2 67:25       | 143:4               |
| 156:16               |                    | 210:21 216:13  | 68:11 75:15      | <b>petrov</b>       |
| <b>past</b>          |                    | 216:21 217:7   | 76:4 84:13       | 2:3,4               |
| 150:5                | <b>people's</b>    | 39:1           | 102:9 108:10     | 3:6 6:13,14 8:5     |
| 176:6                |                    | 184:4          | 125:18 128:11    | 8:8,11,15           |
| <b>patterns</b>      | <b>percent</b>     | 13:19          | 133:14 135:23    | 14:25 16:10,13      |
| 41:2                 |                    | 24:19 54:9     | 144:9,11,14      | 21:25 35:23         |
| <b>pay</b>           |                    | 112:6 161:8,10 | 163:19,19        | 36:7,15 42:7,9      |
| 44:12,14             | <b>percentage</b>  | 13:19          | 165:7 167:2      | 42:12,20 46:7       |
| 44:17 50:14          |                    | 184:22 188:14  | 180:2 183:20     | 46:9,14 47:25       |
| 51:1 74:4 82:7       | <b>perfect</b>     | 13:19          | 200:9 203:4,6    | 56:1,23 57:4        |
| 82:8,12 94:11        |                    | 20:24 23:5     | <b>personal</b>  | 57:15 58:5          |
| 94:19,19 211:3       | <b>performance</b> | 32:4 33:2,6    | 26:1             | 59:1 62:3           |
| 215:6                |                    | 46:4 70:10     | 96:15 117:21     | 68:16 75:11         |
| <b>payroll</b>       |                    | 72:14,23 108:2 | 125:21 138:11    | 77:24 78:1          |
| 31:2                 |                    |                | 146:15,18,24     | 80:15 83:10,13      |
| 52:22                |                    |                | 149:1 165:17     | 88:13,16 89:17      |
| <b>pedagogy</b>      |                    |                | 188:17 200:21    | 98:10 104:22        |
| 140:1,13             |                    |                |                  |                     |
| <b>peer</b>          |                    |                |                  |                     |
| 93:6                 |                    |                |                  |                     |
| 121:20 162:24        |                    |                |                  |                     |
| 163:1                |                    |                |                  |                     |

[petrov - position]

Page 40

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 114:20 118:12<br>123:9,11 126:7<br>126:9,12,15,19<br>131:3,7 141:17<br>141:22 142:22<br>145:19,24<br>151:22,25<br>152:5 171:18<br>171:21 172:5,8<br>172:12,17<br>173:5,9,10<br>174:14,21<br>175:8,11,18<br>176:4,12,15,25<br>185:1 186:3<br>187:17 188:24<br>190:3,7,11,15<br>191:11 194:11<br>196:4 199:16<br>200:1,25<br>203:18 204:9<br>209:4,23 210:2<br>210:5 211:21<br>212:5 215:25<br>216:2 219:10<br>219:20 223:5<br><b>ph.d.</b> 4:3 16:3<br>17:12,18 30:4<br>31:6 64:4<br><b>philosophies</b><br>24:9<br><b>philosophy</b><br>24:14 | <b>phone</b> 54:16,18<br>70:4,21,23<br>71:13 72:10<br>73:20 74:9<br>75:21 85:19<br>133:4 135:18<br>178:22 179:2<br>179:23 181:7<br>181:13 205:2<br>223:3<br><b>phonetic</b> 96:3<br><b>photograph</b><br>138:19<br><b>phrasing</b><br>212:11<br><b>physical</b> 11:3<br>71:3<br><b>physically</b><br>61:25<br><b>pick</b> 42:12<br>112:9 130:1,1<br>133:14 150:13<br>151:16<br><b>picked</b> 106:2<br>131:24<br><b>picking</b> 111:3<br><b>picnic</b> 131:20<br><b>picture</b> 155:25<br>156:1<br><b>pieces</b> 20:2<br><b>pillars</b> 39:7<br><b>pissed</b> 122:24<br><b>pitch</b> 157:24 | <b>place</b> 37:15<br>39:12 49:1<br>52:11 132:1<br>152:17 163:7<br>184:7,11<br>189:19 221:20<br><b>placed</b> 93:20<br>152:16<br><b>places</b> 39:2<br>43:6 122:13<br>159:3 213:25<br><b>plaintiff</b> 1:5 2:2<br>5:15 6:16<br>12:10 90:24<br>152:15 186:11<br>187:3 198:24<br>199:2,5,8<br>201:15,19<br>209:15<br><b>plaintiff's</b> 5:13<br>186:8<br><b>plan</b> 32:11<br><b>plane</b> 155:11<br><b>planes</b> 155:14<br><b>plans</b> 208:9<br><b>play</b> 99:3<br>140:20 141:11<br>144:20 148:16<br>152:11 179:22<br><b>play's</b> 142:2<br><b>played</b> 197:22<br><b>playing</b> 140:21<br>150:18 153:2<br>153:16 | <b>plays</b> 72:3<br>140:9 179:19<br><b>please</b> 6:9 9:14<br>49:7 132:1<br>151:20 179:25<br>186:1,25<br>198:16,18<br>223:11,11<br><b>pled</b> 14:21<br><b>plus</b> 179:21<br><b>point</b> 10:6 12:1<br>26:24 57:1<br>79:5 85:7<br>123:2 138:24<br>177:2 196:6,8<br>217:25<br><b>pointing</b> 46:10<br><b>police</b> 131:24<br>150:14,19<br>162:5,6<br><b>policies</b> 112:3<br><b>policy</b> 100:2<br>112:11 114:15<br><b>pool</b> 129:21,22<br><b>poorly</b> 108:5<br><b>popular</b> 52:6<br>138:6<br><b>population</b><br>207:16<br><b>portion</b> 160:24<br><b>position</b> 4:16<br>14:1 21:8<br>22:22,24 24:24<br>26:17 32:8 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

[position - proceeded]

Page 41

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 34:7,9,12<br>39:10,17 41:12<br>43:11 44:9,11<br>48:4,9,12,14<br>50:12,14 62:18<br>63:25 65:6<br>66:12,20,21<br>85:21 104:4,12<br>105:2,3 111:12<br>118:10 129:20<br>135:21 196:24<br>212:24 214:11<br><b>positions</b> 24:25<br>60:21,22,23<br>64:11,16,19<br>65:15 128:21<br>207:11 214:16<br>214:18,23<br>215:9<br><b>positive</b> 63:3<br>110:11 117:21<br>119:1<br><b>possible</b> 9:11<br>170:10 213:15<br><b>post</b> 28:11 29:4<br>68:11 84:7<br>144:8<br><b>potatoes</b><br>149:18<br><b>potential</b> 11:10<br>51:12 136:18<br>141:2<br><b>potentially</b><br>42:24 125:3 | 129:13 207:5,5<br><b>pound</b> 158:3<br><b>pounds</b> 158:3<br><b>pour</b> 163:14<br><b>power</b> 27:20,22<br>45:8 168:7<br>169:23<br><b>powerful</b> 140:7<br><b>practice</b> 64:3<br>76:18 96:20<br>149:3 188:13<br>192:5 194:15<br>195:1 196:7<br>197:1 212:20<br><b>practices</b> 73:22<br>76:11,18<br>190:20 194:17<br><b>practitioner</b><br>34:11<br><b>pre</b> 84:6<br><b>preceding</b><br>154:22<br><b>predecessor</b><br>67:14<br><b>prefer</b> 83:2<br><b>premise</b> 30:12<br><b>premium</b> 13:23<br><b>prepare</b> 11:8<br>88:25 175:5<br>201:1<br><b>prepared</b> 12:17<br>12:25 13:1<br>145:12 172:19<br>173:19 174:12 | 175:20<br><b>preparing</b> 12:5<br><b>presence</b> 38:19<br>38:22 45:12,17<br>94:22 147:4<br>161:7 167:11<br>202:23 221:15<br><b>present</b> 2:14<br>157:25<br><b>president</b> 22:25<br>22:25 23:25<br>24:3,5,6 34:23<br>37:22<br><b>press</b> 138:6<br><b>pretend</b> 176:23<br><b>pretty</b> 54:8<br>74:22 112:16<br>122:1 133:2<br>211:11<br><b>preview</b> 158:20<br><b>previous</b> 44:4<br>76:15 105:22<br><b>previously</b><br>39:19 166:18<br>192:20<br><b>prickly</b> 151:18<br><b>primary</b> 19:3<br>102:8<br><b>principally</b><br>36:19<br><b>prior</b> 17:25<br>29:8 33:1 41:4<br>60:5 115:24<br>117:9 123:17 | 137:11,16<br>156:10 185:24<br><b>prison</b> 152:16<br><b>private</b> 14:7,9<br>23:15 74:10<br>110:20<br><b>privately</b><br>122:11<br><b>privilege</b> 173:2<br>174:4<br><b>privileged</b><br>74:11 75:8<br>172:19 173:17<br>176:11<br><b>probably</b> 52:20<br>53:10 54:4<br>55:24 66:5<br>86:3 95:14<br>102:7 151:25<br>153:22 166:15<br>168:25 212:25<br>216:3<br><b>problem</b> 57:5<br>80:6 124:12<br>182:24 195:3<br>196:14<br><b>problems</b> 74:2<br><b>procedure</b> 6:24<br>136:23 137:11<br>137:17 220:7<br>224:5 225:5<br><b>proceeded</b><br>164:4 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## [proceeding - question]

Page 42

|                      |                                                                                                                                                                                                                                |                   |                                                                |                     |                                            |                  |                                                                     |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|----------------------------------------------------------------|---------------------|--------------------------------------------|------------------|---------------------------------------------------------------------|
| <b>proceeding</b>    | 12:16 15:16                                                                                                                                                                                                                    | <b>professors</b> | 14:1<br>63:11,16,20,21                                         | <b>provide</b>      | 10:15<br>100:5,6 107:7                     | <b>purposes</b>  | 16:4<br>47:11 54:24                                                 |
| <b>process</b>       | 128:18                                                                                                                                                                                                                         |                   | 66:20 76:13                                                    | <b>provided</b>     | 6:23<br>44:21 73:19                        |                  | 57:23 59:9<br>69:3 80:22                                            |
| <b>processes</b>     | 21:5                                                                                                                                                                                                                           |                   | 105:23 110:13                                                  |                     | 137:10 138:14                              |                  | 81:22 83:6                                                          |
| <b>produce</b>       | 172:24<br>174:7,9                                                                                                                                                                                                              |                   | 114:8 128:21<br>136:25 143:7                                   |                     | 204:5                                      |                  | 88:3 104:14                                                         |
| <b>produced</b>      | 175:6,12                                                                                                                                                                                                                       |                   | 166:24 180:1<br>180:15 200:8                                   | <b>providing</b>    | 105:24                                     |                  | 105:1 115:7<br>120:3 134:1                                          |
| <b>produces</b>      | 57:9                                                                                                                                                                                                                           | <b>program</b>    | 14:4<br>17:20 18:4,11                                          | <b>provocative</b>  | 142:5 159:15                               |                  | 137:24 142:5<br>143:19 157:20                                       |
| <b>product</b>       | 175:21                                                                                                                                                                                                                         |                   | 18:12 29:2<br>30:4 38:18                                       | <b>psychologist</b> | 158:9 164:20<br>28:9 145:3                 |                  | 158:9 164:20<br>177:18 186:12                                       |
| <b>production</b>    | 5:15 175:7,8<br>175:10,13<br>186:10 223:15<br>223:17,22                                                                                                                                                                        |                   | 40:3 43:18,19<br>44:1 51:5,20<br>51:23 52:1,23<br>55:15 121:19 | <b>public</b>       | 210:13<br>7:21<br>74:12,22<br>180:17 200:6 | <b>pursuant</b>  | 220:3<br>220:6                                                      |
| <b>professionals</b> | 190:21 207:17                                                                                                                                                                                                                  |                   | 122:2,8 123:8<br>124:10,19,20<br>164:12 206:19                 |                     | 221:6 222:14<br>224:10,18<br>225:15,23     | <b>put</b>       | 13:25 92:21<br>112:19 142:11<br>158:3 169:20<br>218:12              |
| <b>professor</b>     | 11:15<br>14:4 61:11,14<br>62:5 63:9,25<br>64:1,3,16 74:3<br>74:15 75:5<br>83:3 93:12<br>94:17 107:5<br>110:7,10,16,19<br>111:4,6 112:4<br>118:21 128:23<br>129:13 136:21<br>140:4 164:9<br>207:11 214:10<br>216:14,14<br>218:3 | <b>programs</b>   | 33:10 43:15<br>55:20 107:10<br>122:21 207:13                   | <b>publish</b>      | 226:23<br>138:5                            | <b>putting</b>   | 57:12                                                               |
| <b>professor's</b>   | 14:10                                                                                                                                                                                                                          | <b>progress</b>   | 145:21                                                         | <b>published</b>    | 137:13<br>138:8                            | <b>q</b>         |                                                                     |
|                      |                                                                                                                                                                                                                                | <b>project</b>    | 106:20                                                         | <b>pulling</b>      | 107:12<br>107:23                           | <b>qualified</b> | 61:13<br>64:20 65:6<br>221:8                                        |
|                      |                                                                                                                                                                                                                                | <b>projects</b>   | 116:15<br>120:23                                               | <b>punishing</b>    | 138:8                                      | <b>quality</b>   | 100:5<br>184:3                                                      |
|                      |                                                                                                                                                                                                                                | <b>promoted</b>   | 92:22                                                          | <b>pulled</b>       | 199:7                                      | <b>quarter</b>   | 32:12                                                               |
|                      |                                                                                                                                                                                                                                | <b>pronounce</b>  | 139:25                                                         | <b>pure</b>         | 142:15                                     | <b>quarterly</b> | 30:12                                                               |
|                      |                                                                                                                                                                                                                                |                   | <b>proud</b>                                                   | <b>purpose</b>      | 198:23<br>71:19<br>163:17 171:11           | <b>question</b>  | 7:24<br>9:5,15,17,19,21<br>10:5,7,10,13<br>36:5 46:10<br>47:25 50:4 |
|                      |                                                                                                                                                                                                                                |                   | 87:15<br>210:18                                                |                     |                                            |                  |                                                                     |

**[question - reappointment]**

Page 43

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 59:3 75:11<br>78:2 88:10,20<br>97:24 98:5<br>118:12 123:9<br>123:12 126:10<br>126:10,16<br>160:9 173:23<br>184:25 189:10<br>190:8,9 194:13<br>198:4 199:17<br>200:24 201:4<br>203:20 212:9<br>219:14<br><b>questions</b> 7:13<br>36:2 46:11<br>50:3 57:5,17<br>72:17,21 84:14<br>88:21 89:1<br>92:4 125:1<br>131:8 145:25<br>172:21 174:8<br>174:10,23<br>193:13 217:14<br>219:11<br><b>quick</b> 26:7<br>80:17 167:21<br><b>quiet</b> 74:22<br><b>quietly</b> 150:21<br>187:9<br><b>quite</b> 44:13<br>47:20 49:1<br>121:7 165:13<br><b>quitting</b> 76:22 | <b>quote</b> 22:7<br>53:25 77:12<br>99:8 151:7<br>154:12 159:18<br>199:9 212:12<br><b>quoted</b> 152:15<br><br><b>r</b><br><b>r</b> 42:7,8 130:11<br><b>racial</b> 165:12<br>169:13 178:11<br>178:12,17,21<br>193:18 205:19<br><b>racist</b> 163:8<br>168:23 169:10<br><b>raise</b> 142:5<br><b>raised</b> 34:12,12<br><b>raises</b> 56:25<br><b>ran</b> 27:25<br>100:20 108:13<br>196:14<br><b>range</b> 110:1<br>116:2,8 119:4<br>119:9<br><b>rank</b> 110:10,18<br><b>ranking</b> 110:7<br>110:13<br><b>rate</b> 50:25<br><b>rather</b> 22:8<br>150:22<br><b>rating</b> 217:21<br>218:3,7<br><b>ratings</b> 121:5,6 | <b>reach</b> 54:15<br>85:7,10 87:22<br>118:21,25<br>119:2 123:22<br>140:3 171:8,9<br>179:2 182:18<br>211:17<br><b>reached</b> 33:9<br>39:15 118:18<br>139:4 171:10<br>192:22 206:12<br>206:14<br><b>reaching</b><br>103:16 171:12<br><b>react</b> 150:15<br><b>reacting</b> 147:6<br>180:14<br><b>reaction</b> 60:10<br>153:7<br><b>reactions</b><br>153:25 164:3<br>179:21 180:18<br><b>read</b> 11:9,18<br>49:7 56:1<br>152:13,20<br>186:25 187:9<br>198:20 210:6<br>216:12 219:20<br>224:5,6,12<br>225:5,6,17<br><b>readiness</b> 145:4<br>149:9 156:21<br><b>reading</b> 134:6<br>223:19 | <b>ready</b> 145:5<br>157:1,1 167:7<br><b>real</b> 43:1<br>108:18 140:24<br>142:16 195:3<br>210:19<br><b>reality</b> 119:22<br><b>realize</b> 65:12<br>79:17<br><b>realized</b> 64:19<br>117:16<br><b>really</b> 25:24<br>32:22 40:21<br>43:25 44:13<br>61:2 66:14<br>70:14 86:9<br>97:6 100:20<br>102:14 110:13<br>110:16,17<br>112:18 113:8<br>121:22,25<br>124:18,24<br>127:6 128:8<br>140:4 141:7<br>151:15 160:8<br>162:20 167:10<br>167:11,21<br>181:2 185:10<br>195:24 203:2,4<br>207:14 213:13<br><b>reappointment</b><br>56:21 58:10,14<br>58:19 59:17,24<br>60:5,11 68:14 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## [reappointment - rejections]

Page 44

|                         |                       |                |                        |                        |
|-------------------------|-----------------------|----------------|------------------------|------------------------|
| 68:22                   | <b>receives</b>       | 157:14         | 171:20,22,25           | 139:1,16               |
| <b>reason</b> 10:14     | <b>receiving</b>      | 117:8          | 172:22 177:8           | <b>referring</b> 40:7  |
| 65:14 80:3              |                       | 186:17 219:5   | 177:11 211:22          | 41:3 73:1 90:7         |
| 148:20 223:14           | <b>recent</b>         | 20:21          | 212:1 219:21           | <b>refined</b> 207:18  |
| 225:8 226:3             |                       | 159:24         | 225:9                  | <b>reflect</b> 82:12   |
| <b>reasonable</b>       | <b>recently</b>       | 195:18         | <b>recorded</b> 7:19   | 197:21                 |
| 72:8                    | <b>recess</b>         | 82:22          | 7:19                   | <b>reflected</b> 11:10 |
| <b>reasons</b> 24:7     |                       | 126:22 177:9   | <b>recordkeeping</b>   | <b>refresh</b> 134:18  |
| 25:1 118:9              |                       | 211:24         | 57:1                   | <b>regard</b> 50:16    |
| <b>recall</b> 12:1 13:8 | <b>recognize</b>      |                | <b>records</b> 66:5,8  | 100:12 196:2           |
| 14:10 62:8              |                       | 16:20 47:18    | <b>recounted</b>       | <b>regarding</b> 13:9  |
| 65:24 83:17             |                       | 55:6 81:4      | 134:14                 | 59:17 61:19            |
| 104:21,23,24            |                       | 104:20 115:13  | <b>recruited</b>       | 62:23 77:19,21         |
| 114:18 186:17           |                       | 120:9 165:2    | 202:21                 | 87:23 102:24           |
| 212:10                  | <b>recognizes</b>     | 57:6           | <b>recruiting</b> 14:8 | 115:23 118:16          |
| <b>recapped</b>         |                       | 57:12          | 102:24 124:17          | 125:4 134:15           |
| 135:16,17               | <b>recollection</b>   |                | 157:20 163:2,3         | 144:10 161:18          |
| <b>receipt</b> 223:18   |                       | 134:18 173:16  | 163:5                  | 189:9 196:16           |
| <b>receive</b> 17:14    |                       | 185:2          | <b>recurring</b>       | 199:10,14              |
| 18:23 66:9              | <b>recommendat...</b> | 11:22          | 32:19                  | 200:20 220:2           |
| 68:13 82:11             |                       | 11:22          | <b>reduced</b> 221:14  | 220:11                 |
| 86:12 217:25            | <b>recommendat...</b> | 197:17         | <b>reemployment</b>    | <b>regards</b> 24:13   |
| 218:3                   |                       | 197:17         | 56:7                   | 96:16 173:2            |
| <b>received</b> 69:15   | <b>recommended</b>    |                | <b>refer</b> 41:25     | <b>regimen</b> 10:22   |
| 70:1 71:6               |                       | 83:23          | 140:13 198:13          | <b>region</b> 168:11   |
| 103:21,22               | <b>record</b>         | 6:2,10         | <b>reference</b>       | <b>regular</b> 36:9    |
| 121:8,10                |                       | 7:21 9:25      | 168:23 212:9           | 51:12 149:25           |
| 163:13 166:10           |                       | 13:14 36:3     | 223:7 224:2            | 150:1 220:13           |
| 174:17 183:12           |                       | 41:25 46:11,21 | 225:2                  | <b>regularly</b>       |
| 204:3 215:8             |                       | 57:12 62:11    | <b>referenced</b> 97:2 | 101:20 102:15          |
| 216:13,17               |                       | 63:10 65:23    | 221:13,18              | 106:3 107:11           |
| 218:9,15,23             |                       | 82:20,24       | 224:11 225:15          | 183:6                  |
| 219:8                   |                       | 119:21 125:2   | <b>referred</b> 18:6   | <b>rejections</b>      |
|                         |                       | 126:18,20,24   | 19:10 105:21           | 215:8                  |

[relate - revealed]

Page 45

|                         |                       |                         |                         |
|-------------------------|-----------------------|-------------------------|-------------------------|
| <b>relate</b> 50:2      | <b>reminded</b>       | <b>requirement</b>      | 209:13                  |
| <b>related</b> 102:10   | 135:20                |                         | <b>responses</b> 5:13   |
| <b>relating</b> 199:12  | <b>renew</b> 97:16    | <b>research</b> 63:21   | 86:14 186:8,21          |
| 217:14                  | 197:10                | 66:19 93:12             | 199:11,14               |
| <b>relationship</b>     | <b>renewed</b> 70:6   | <b>reserve</b> 27:8     | 201:6                   |
| 31:19 75:8              | 73:24 75:4            | 30:23                   | <b>responsibilities</b> |
| 94:10 99:14             | 95:17                 | <b>resign</b> 23:17     | 44:23 101:16            |
| 106:5                   | <b>reorg</b> 102:5    | <b>resignation</b>      | 102:12 165:15           |
| <b>relationships</b>    | <b>repeat</b> 106:13  | 26:10 27:5              | <b>responsible</b>      |
| 191:4                   | 178:14                | <b>resilience</b> 38:20 | 55:21 136:6             |
| <b>relative</b> 222:2   | <b>rephrase</b> 9:22  | 45:13 138:12            | 162:6                   |
| <b>relatively</b> 62:16 | 9:23 199:19           | 161:9                   | <b>responsive</b>       |
| <b>released</b> 13:11   | <b>reporter</b> 7:20  | <b>resistance</b>       | 176:2,20                |
| 179:12 192:5            | 9:9 224:7             | 28:18                   | <b>rest</b> 177:4       |
| <b>religious</b>        | <b>reporter's</b> 3:8 | <b>resolution</b>       | <b>restated</b> 179:18  |
| 169:17                  | 9:10 40:22            | 139:21                  | <b>result</b> 209:17    |
| <b>relocation</b>       | 221:1                 | <b>resolve</b> 172:25   | <b>resume</b> 4:3       |
| 211:2                   | <b>reporting</b>      | 176:17                  | 16:3,23,24              |
| <b>remedies</b> 209:2   | 191:4                 | <b>resource</b> 42:4    | 21:7 28:22              |
| <b>remember</b>         | <b>represent</b>      | 116:6                   | 32:1                    |
| 11:11 14:16             | 105:1                 | <b>resources</b>        | <b>retaliated</b>       |
| 34:6 37:14              | <b>represented</b>    | 41:23 43:8              | 199:1 201:16            |
| 39:9 42:18,23           | 51:13 101:11          | 105:6 116:5             | 201:20,24               |
| 43:10 47:22             | 107:5,6               | <b>respectful</b>       | 202:11,17               |
| 58:23 61:5,20           | <b>request</b> 170:9  | 45:17                   | 203:16                  |
| 68:17 86:22             | 176:3 225:9,11        | <b>respectfully</b>     | <b>retaliation</b> 91:3 |
| 96:12 110:23            | <b>requested</b>      | 202:24                  | 198:22                  |
| 117:8 130:9,13          | 220:1,6,10            | <b>respond</b> 83:8     | <b>return</b> 31:13     |
| 132:4 146:18            | <b>requests</b> 5:14  | <b>responded</b> 79:7   | 44:14                   |
| 150:3 164:12            | 186:10                | <b>response</b> 86:10   | <b>returned</b>         |
| 183:19 184:6            | <b>required</b> 37:4  | 86:10,12                | 223:18                  |
| 184:20 185:4,8          | 63:21 143:3,5         | 125:22 135:13           | <b>revealed</b>         |
| 205:8 217:17            | 144:12 223:25         | 186:21 187:1            | 204:18                  |
|                         |                       | 199:15,23               |                         |

[revenue - running]

Page 46

|                  |                                                                                                                                                                      |                                                                                                                                                                               |                                                                                                                                 |                                                                                                                                                               |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>revenue</b>   | 208:1<br>208:11 217:11                                                                                                                                               | 57:10,15 58:2<br>59:12 60:4,7                                                                                                                                                 | 214:25 215:15<br>215:21 216:7,7                                                                                                 | 106:1,1 114:9<br>140:9,20,21                                                                                                                                  |
| <b>revenues</b>  | 32:19<br>32:23                                                                                                                                                       | 60:19 61:22<br>62:21 70:22                                                                                                                                                    | 218:17<br><b>right's</b> 36:1                                                                                                   | 141:11 142:2<br>144:20 148:16                                                                                                                                 |
| <b>review</b>    | 16:17<br>55:4 111:7<br>115:22 119:19<br>120:15 195:2<br>197:1 200:15<br>217:20,24<br>218:15 219:5<br>220:2,6 223:12<br>224:1 225:1                                   | 71:7 73:21<br>75:7 80:12<br>81:13 83:1,24<br>85:11 86:8<br>88:16 89:3,5<br>89:10 95:19<br>98:20 99:1<br>101:6 106:6<br>116:4,10 117:7                                         | <b>rights</b> 21:4<br>91:24 184:4<br>188:4 189:13<br>189:25 190:22<br>199:3 200:7,9<br>200:12<br><b>rigorous</b> 36:9           | 150:19 152:11<br>153:2 179:19<br>179:21 197:22<br><b>roles</b> 44:22<br>46:25<br><b>rolling</b> 135:7<br><b>rome</b> 123:1<br><b>room</b> 9:24<br>53:21 143:9 |
| <b>reviewed</b>  | 151:17                                                                                                                                                               | 117:24 118:4<br>121:14 125:21                                                                                                                                                 | <b>riveting</b> 145:11<br><b>road</b> 2:5<br><b>robert</b> 4:18,20<br>4:22 5:11<br>83:21 89:23<br>93:9 111:21<br>115:5 120:1,18 | 145:10 168:18<br>169:1 175:1<br>207:16<br><b>roughly</b> 13:16<br>22:3 37:16<br>38:2,8 41:19<br>41:20 92:9,13<br>92:19,25 184:6                               |
| <b>reviewing</b> | 12:1<br>47:16 58:7<br>69:10 81:2<br>88:8 104:18<br>115:11 120:7<br>144:1 158:16<br>177:23 197:25                                                                     | 126:13 127:1<br>127:20 129:23<br>130:14 133:16<br>137:18 138:19<br>148:5,5,5<br>154:6,9 159:20<br>163:24 171:16                                                               | 123:20 133:23<br>134:11 135:11<br>177:15 178:2<br>180:22 181:8<br>181:13 191:8<br>191:13 193:6<br>216:14                        | <b>rpr</b> 1:20<br><b>rules</b> 6:23 7:7<br>220:3,7 224:5<br>225:5<br><b>run</b> 100:17<br>101:6 106:22<br>122:2,9,21<br>124:14,15                            |
| <b>richard</b>   | 27:15                                                                                                                                                                | 171:19 176:15                                                                                                                                                                 | <b>rogerian</b><br>147:20                                                                                                       | <b>running</b> 40:2<br>200:17                                                                                                                                 |
| <b>right</b>     | 7:4 13:5<br>14:5,7 15:6<br>16:7,16 18:2<br>20:20 25:8<br>27:10 28:7,23<br>31:15,17 32:6<br>33:4,20 34:5<br>34:18 35:21,21<br>37:13 40:15<br>41:18 42:5<br>50:20 53:1 | 176:25 177:21<br>177:25 180:23<br>181:15,15<br>182:1,10<br>186:24 187:14<br>188:12 189:17<br>201:12 203:24<br>204:21 205:1,4<br>205:25 206:6<br>208:12 211:21<br>212:5 214:14 | <b>role</b> 19:21 45:8<br>45:22 72:3<br>76:14 95:12,20<br>95:22,23 99:3<br>101:25 105:25                                        |                                                                                                                                                               |

[s - select]

Page 47

|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>s</b> | 105:3 144:3,10<br>166:9 178:19<br>209:14<br><b>sb</b> 218:1<br><b>scaring</b> 167:6<br><b>scary</b> 144:24<br>147:1<br><b>scenario</b><br>148:16 149:24<br>152:11<br><b>scenarios</b><br>140:24 142:4<br>146:19<br><b>scene</b> 74:16<br><b>schedule</b> 67:24<br>144:12<br><b>schira</b> 2:15<br><b>scholarly</b><br>217:21<br><b>school</b> 13:25<br>17:17 18:5,5<br>19:8,12 27:9<br>38:14 65:16<br>74:20 98:25<br>100:16 107:8<br>128:19 143:4<br>157:20,21<br>158:1,1 184:17<br>190:20 200:17<br>206:20 213:11<br><b>schools</b> 35:9<br>64:2 101:14<br>206:21 | <b>scope</b> 44:21<br><b>score</b> 117:9<br><b>scores</b> 109:23<br>110:2,5 111:16<br>111:22 112:22<br>113:20 114:3<br>114:18 117:5<br>119:1,4 125:4<br>217:14 218:9<br>219:8<br><b>seal</b> 222:6<br>224:15 225:21<br><b>seasoned</b><br>105:23 149:6<br><b>second</b> 22:6<br>49:5,6,14<br>58:10 63:23<br>91:12,19 118:1<br>120:20 138:7<br>159:13,17<br>161:6 171:23<br>172:6 173:10<br>209:25<br><b>secondary</b> 19:3<br><b>seconds</b> 216:4<br><b>section</b> 91:4,16<br>105:3 123:21<br>161:6 198:23<br><b>sections</b> 116:18<br>117:1 118:17<br>161:5<br><b>see</b> 13:13 17:8<br>31:5 40:13<br>50:25 85:14 | 90:9,18 94:18<br>97:21,25 98:8<br>108:23 113:23<br>118:15 122:15<br>130:9 135:5<br>138:18 148:22<br>150:4 153:17<br>159:15 166:22<br>178:2,24<br>182:13 204:6<br>218:16 219:16<br><b>seeing</b> 104:23<br>109:5 197:25<br>216:24<br><b>seek</b> 75:19 95:7<br><b>seeking</b> 99:8<br>209:1,2<br><b>seemed</b> 79:10<br><b>seems</b> 144:24<br><b>seen</b> 95:25<br>96:11 189:7<br>197:20<br><b>sei</b> 111:16,22<br>112:22 113:20<br>114:18 116:2,8<br>117:5,9 119:4<br>121:9,10<br>217:14 218:9<br>219:7<br><b>sei's</b> 109:13,18<br>110:22 112:21<br>113:15<br><b>select</b> 44:15<br>129:4 |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

[selected - similar]

Page 48

|                  |           |                   |            |                  |                        |
|------------------|-----------|-------------------|------------|------------------|------------------------|
| <b>selected</b>  | 111:5     | 153:18 176:10     | <b>set</b> | 5:14 48:21       | 134:4 141:11           |
| <b>selecting</b> | 136:6     | <b>sensitive</b>  |            | 68:2 164:8       | 143:22 164:22          |
| 136:10           |           | 101:12 144:11     |            | 179:4 186:9      | 168:9 202:24           |
| <b>sell</b>      | 210:22,23 | <b>sent</b>       | 167:20,22  | 187:2 199:4      | <b>showed</b> 87:10    |
| <b>selling</b>   | 13:12     | 178:7             | 222:6      |                  | 134:21                 |
| 14:6             |           | <b>sentence</b>   | 49:7       | <b>settings</b>  | 159:10                 |
| <b>semester</b>  | 46:20     | 121:2,4 210:6     |            | <b>seven</b>     | 41:20                  |
| 52:25 54:11      |           | 217:24            |            | 79:21 113:17     | <b>shown</b> 223:16    |
| 82:6 87:20       |           | <b>separate</b>   | 65:5       | 113:19 147:4     | <b>shows</b> 188:18    |
| 108:3,25,25      |           | <b>separated</b>  |            | <b>several</b>   | 121:5                  |
| 109:20 130:6,7   |           | 23:18,19 206:6    |            | <b>severance</b> | 27:2                   |
| 149:12 167:2     |           | 209:22            |            | <b>shaker</b>    | 2:5                    |
| <b>send</b>      | 87:9,9    | <b>separately</b> | 51:7       | <b>share</b>     | 16:13,14               |
| 125:9 132:1      |           | <b>separation</b> | 24:7       | 73:10 85:21      | 81:13 89:10,21         |
| 156:9 160:25     |           | 25:2 33:7,8       |            | 173:15 197:17    | 96:24 155:9            |
| 163:24           |           | 87:22 211:7       |            | <b>shared</b>    | 45:9                   |
| <b>senior</b>    | 22:25     | 212:13,16         |            | 103:24 173:18    | 172:1                  |
| 24:3 34:13,16    |           | <b>september</b>  |            | 183:24 199:23    | <b>sided</b> 183:24    |
| 35:16 36:17      |           | 56:13 58:15       |            | <b>sharing</b>   | 75:8                   |
| 37:7 39:10       |           | 71:23 72:10       |            | 96:22 150:8,8    | <b>sign</b> 55:12,16   |
| 45:22 48:5       |           | 145:18 149:21     |            | <b>sheet</b>     | 223:13                 |
| 59:25 60:16      |           | 166:6,13 171:1    |            | 225:7,10,18      | <b>signaling</b> 149:3 |
| 61:6,14 63:24    |           | 171:1,3,4         |            | 226:1            | <b>signalled</b> 193:3 |
| 69:24 76:14      |           | 178:8 182:4,15    |            | <b>shit</b>      | 145:7                  |
| 92:22 99:21      |           | 192:3,7,8         |            | <b>shock</b>     | 145:7                  |
| 101:21 102:16    |           | <b>series</b>     | 11:9,18    | 151:13 153:3     | <b>signature</b> 49:15 |
| 105:2,23         |           | 36:20             |            | 155:7 168:25     | 49:17 55:9             |
| 111:12,15        |           | <b>seriously</b>  | 132:9      | <b>shocked</b>   | 163:16                 |
| 121:12 127:2     |           | <b>serve</b>      | 105:7,16   | <b>shop</b>      | 101:5                  |
| 136:5,22         |           | 129:5             |            | <b>short</b>     | 62:16                  |
| 197:10 204:24    |           | <b>served</b>     | 106:10     | 107:2 184:2      | <b>signing</b> 48:24   |
| 214:17           |           | <b>service</b>    | 99:7       | <b>shoulder</b>  | 39:4                   |
| <b>sense</b>     | 31:24     | <b>sessions</b>   | 111:8      | <b>show</b>      | 37:5                   |
| 80:16 132:13     |           |                   |            | 38:24 39:5       | 223:19                 |
|                  |           |                   |            |                  | <b>similar</b> 144:8   |
|                  |           |                   |            |                  | 175:24 195:14          |
|                  |           |                   |            |                  | 198:8 204:19           |

## [similar - speculating]

Page 49

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 206:10 207:9<br>217:5 218:17<br><b>simple</b> 38:6<br><b>simply</b> 196:23<br>199:22 210:15<br><b>simulation</b> 72:4<br>140:10 141:12<br>179:20,22<br><b>simulations</b><br>142:3<br><b>sincerely</b><br>223:21<br><b>single</b> 128:11<br><b>sir</b> 79:18<br>190:14 223:10<br><b>sit</b> 205:4,6<br><b>sitting</b> 114:17<br>143:8<br><b>situation</b> 52:9<br>76:22 77:20<br>78:7,11 142:7<br>146:5 172:23<br><b>situations</b><br>142:14 144:17<br>144:20<br><b>six</b> 14:18 17:21<br>28:10 41:20<br><b>size</b> 127:20<br><b>sizes</b> 127:2<br><b>skill</b> 118:11<br>124:20 136:15<br>141:1,6,8<br><b>skills</b> 27:19<br>139:20 140:8 | 170:14 207:18<br><b>slightly</b> 58:24<br><b>sliwinski</b> 2:10<br><b>slowly</b> 145:1,11<br><b>slur</b> 169:14<br>178:11,12,17<br><b>slurs</b> 134:24<br>165:13 168:23<br>169:16,17,17<br>178:21 193:18<br>205:19<br><b>small</b> 13:19<br>20:25 32:19<br>112:15<br><b>smaller</b> 127:8<br><b>smiles</b> 39:1<br><b>smiling</b> 168:13<br><b>snapshot</b> 145:6<br><b>snippet</b> 169:9<br><b>snowberger</b><br>24:2<br><b>social</b> 144:23<br>180:11<br><b>socratic</b> 141:15<br>142:3 146:13<br>150:4<br><b>solicit</b> 164:2<br><b>solutions</b> 223:1<br>226:1<br><b>somewhat</b> 75:7<br>85:24 140:3<br><b>son</b> 2:10 6:19<br><b>sons</b> 12:9 110:9<br>210:17 | <b>soon</b> 171:6<br><b>sorry</b> 6:11<br>12:22 19:23<br>36:12 40:19<br>56:24 66:11<br>75:6 76:9,16<br>76:23 77:13<br>78:3,3 103:12<br>106:13 121:3<br>123:14 124:2<br>127:23 141:3<br>160:10 163:21<br>173:10 178:14<br>185:16 187:8<br>187:10 191:14<br>192:2 195:13<br>196:10 198:14<br>199:16 202:9<br><b>sort</b> 12:15<br>39:20 131:15<br>154:16 170:6<br>185:14,22,22<br>208:1 214:15<br>214:23<br><b>sorts</b> 29:15<br>74:13 200:6<br><b>soul</b> 163:15<br><b>sound</b> 135:8<br><b>sounds</b> 34:4,4<br>72:7 73:11<br>179:24 208:10<br><b>source</b> 161:22<br><b>southern</b> 1:1<br>6:8 | <b>soviet</b> 43:5<br><b>space</b> 27:17<br>38:22,24 45:17<br>139:6 180:17<br><b>spain</b> 122:13<br><b>speak</b> 9:12 12:4<br>94:15 212:22<br><b>speaker</b> 107:18<br>208:7,8<br><b>speaking</b> 32:10<br>49:8 99:13<br>145:2 180:15<br><b>special</b> 18:25<br>19:9 31:3<br>124:14<br><b>specific</b> 87:8<br>189:23 196:17<br>197:23 198:4<br>200:18,21<br><b>specifically</b><br>10:11 24:11<br>43:17 73:11<br>84:24 91:6<br>157:11 201:14<br>202:7<br><b>specificity</b><br>204:2<br><b>specifics</b> 70:11<br><b>specified</b><br>221:21<br><b>specify</b> 205:20<br><b>speculating</b><br>54:1,5 86:25 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

[speech - stouffer]

Page 50

|                 |                                                                                                                                                                    |                   |                                          |                   |                                                             |                     |                                            |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|------------------------------------------|-------------------|-------------------------------------------------------------|---------------------|--------------------------------------------|
| <b>speech</b>   | 90:25<br>91:7,25 150:6<br>150:22 151:1,5<br>193:20 194:10<br>198:25 201:14<br>201:19,23<br>202:7,14,16<br>203:9,10,11,14<br>203:15,22,23<br>212:14,17<br>215:15,21 | <b>stages</b>     | 145:1<br>101:3 157:16                    | <b>state</b>      | 1:17 6:5,9<br>6:20 18:17,19<br>35:1 38:3 43:4               | <b>step</b>         | 84:20<br>129:11,12<br>171:23               |
| <b>spell</b>    | 7:10                                                                                                                                                               | <b>stakes</b>     | 138:13<br>190:23                         | <b>stated</b>     | 162:5,5 221:2<br>221:7 222:15<br>224:10 225:15              | <b>steps</b>        | 184:15                                     |
| <b>spend</b>    | 67:5                                                                                                                                                               | <b>stamp</b>      | 178:1                                    | <b>stated</b>     | 46:18<br>77:22                                              | <b>stereotyping</b> | 169:23                                     |
| <b>spending</b> | 32:15<br>168:16                                                                                                                                                    | <b>stand</b>      | 109:15<br>195:25                         | <b>statement</b>  | 66:25 165:6<br>166:13 197:3                                 | <b>sters</b>        | 51:10,15<br>82:2                           |
| <b>spent</b>    | 145:15<br>166:1                                                                                                                                                    | <b>standard</b>   | 124:19 160:2                             | <b>states</b>     | 1:1 6:7<br>105:4 121:3<br>123:6,18                          | <b>stewards</b>     | 101:5                                      |
| <b>spoken</b>   | 46:16<br>76:1 103:11<br>208:21                                                                                                                                     | <b>standpoint</b> | 51:16 103:1<br>119:21,22<br>167:11 213:2 | <b>start</b>      | 178:16 204:5<br>31:21 33:1,6<br>33:23 51:19<br>92:19 133:15 | <b>stop</b>         | 51:25                                      |
| <b>spring</b>   | 39:13<br>49:4 52:20,25<br>54:10 67:22<br>74:10 78:16<br>84:3,21 87:20<br>144:3 149:12<br>182:6 197:5                                                               | <b>start</b>      | 144:21 146:15<br>164:1                   | <b>stating</b>    | 48:10<br>172:22                                             | <b>stopping</b>     | 10:6                                       |
| <b>ss</b>       | 221:3                                                                                                                                                              | <b>started</b>    | 21:12                                    | <b>statistics</b> | 61:7<br>75:5                                                | <b>stories</b>      | 114:5<br>140:9 146:11<br>146:12 161:15     |
| <b>stable</b>   | 208:20                                                                                                                                                             | <b>starting</b>   | 20:23                                    | <b>stature</b>    | 65:13<br>95:13                                              | <b>story</b>        | 74:21<br>150:8,9,21<br>154:11,12<br>162:19 |
| <b>staff</b>    | 13:17<br>37:10,11,25<br>67:11 107:9<br>200:14                                                                                                                      | <b>starts</b>     | 48:25<br>159:12                          | <b>status</b>     | 71:14<br>135:11,19<br>192:18                                | <b>storytelling</b> | 141:12                                     |
|                 |                                                                                                                                                                    | <b>startup</b>    | 32:9<br>206:24                           | <b>stay</b>       | 51:22<br>57:17 112:20<br>155:1,24                           | <b>stouffer</b>     | 2:9 3:6<br>3:7 6:11,18,19                  |
|                 |                                                                                                                                                                    |                   |                                          | <b>stayed</b>     | 22:22<br>144:15                                             |                     | 36:13,16 42:8                              |
|                 |                                                                                                                                                                    |                   |                                          | <b>stenotypy</b>  | 221:14                                                      |                     | 42:10,15,16                                |
|                 |                                                                                                                                                                    |                   |                                          |                   |                                                             |                     | 46:15 57:3,11                              |
|                 |                                                                                                                                                                    |                   |                                          |                   |                                                             |                     | 58:1,4 78:4                                |
|                 |                                                                                                                                                                    |                   |                                          |                   |                                                             |                     | 80:13,17 82:18                             |
|                 |                                                                                                                                                                    |                   |                                          |                   |                                                             |                     | 82:25 83:16                                |

[stouffer - sullivan]

Page 51

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 89:3,4 123:13<br>123:15 126:17<br>126:25 131:9<br>141:20,25<br>142:20,23,24<br>146:2 151:24<br>152:8 171:16<br>172:16 173:4<br>174:11,20<br>175:3,9,17,22<br>176:9,13,21<br>177:6,20<br>186:14 190:16<br>199:18 210:1,4<br>210:10,12<br>211:10,19<br>212:2 215:23<br>217:13 219:13<br>219:19 220:12<br><b>stranger</b> 85:24<br>100:12<br><b>strategy</b> 25:11<br>29:14,15<br><b>stream</b> 81:22<br>82:1 208:11,19<br><b>streams</b> 208:2<br>208:11<br><b>stressful</b><br>144:17 146:5<br><b>strictly</b> 93:3<br><b>strike</b> 77:20<br>109:22 162:10<br>166:16 185:16<br>201:22 | <b>struck</b> 96:13<br>165:14 205:12<br><b>structure</b> 41:21<br>191:3<br><b>stuck</b> 42:17<br><b>student</b> 11:17<br>27:15,24 28:6<br>30:16 74:13<br>76:11,18 77:15<br>77:21 78:6,8,9<br>87:11 108:9,21<br>109:10,12,17<br>109:21 113:9<br>136:15 143:6<br>162:17,18,22<br>162:24 163:1<br>169:5 181:2<br>195:14,18<br>196:15 202:20<br>202:21 204:19<br>205:5,15,18,22<br>205:24 206:2<br><b>students</b> 14:8<br>19:12 29:3,20<br>44:2,3 94:24<br>95:4,5,6,7,9<br>106:19 109:22<br>109:23 110:14<br>112:14 117:19<br>121:23 122:24<br>124:16,17<br>126:3 127:6<br>128:1,4 136:8<br>136:11 137:5 | 141:14 143:3<br>144:19 146:4<br>147:6,13,18<br>150:18 153:8<br>153:12 157:17<br>162:12 163:3,5<br>163:15 164:6<br>164:11 166:1<br>167:2 168:18<br>180:4 211:14<br>211:16<br><b>stuff</b> 44:24<br>102:9 147:1<br>160:2<br><b>subject</b> 205:10<br>209:14 210:6<br><b>subjected</b><br>205:10<br><b>subjecting</b><br>188:4 189:13<br><b>subjects</b> 136:5<br><b>submit</b> 45:14<br>160:13,24<br><b>submitted</b><br>11:19 39:19<br>45:15 213:22<br><b>subparts</b> 187:4<br>199:13<br><b>subscribed</b><br>224:10 225:14<br>226:21<br><b>subsection</b><br>159:14 193:16<br>194:3 | <b>substance</b><br>97:14 103:18<br>205:9<br><b>substantial</b><br>27:1 144:6,7<br><b>substantially</b><br>218:1,7<br><b>sucked</b> 150:10<br><b>sued</b> 189:23<br><b>suffered</b> 209:16<br>210:22<br><b>suggest</b> 66:12<br><b>suing</b> 193:17<br><b>suite</b> 84:4,11<br>85:13 86:21<br>223:2<br><b>sullivan</b> 1:4,13<br>3:5 4:3,4,7,8,10<br>4:12,14,18,20<br>4:23 5:9,11 6:4<br>6:5,15,17,22<br>7:2,4 16:3 47:8<br>54:22 57:21<br>59:7 69:1<br>80:20 83:3,4<br>88:24 94:1<br>107:22 115:4<br>119:25 133:24<br>164:18 172:4<br>173:3,7 177:15<br>216:1 219:12<br>221:9 223:6,8<br>224:3,4,9<br>225:3,4,13 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

[sullivan - talked]

Page 52

|                       |                                                  |                                                                                                            |                                                  |
|-----------------------|--------------------------------------------------|------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| 226:20                | 13:16 17:2                                       | <b>syllabus</b> 5:5<br>143:18 149:16<br>154:7                                                              | <b>taken</b> 1:17<br>62:18 82:22<br>118:9 126:22 |
| <b>sullivan.956</b>   | 38:7 42:13,22<br>46:3 53:8 54:3                  | <b>system</b> 117:16                                                                                       | 135:17 153:22                                    |
| 134:9                 | 62:25 72:15<br>86:19 87:15                       | <b>t</b>                                                                                                   | 165:13 177:9                                     |
| <b>summary</b> 81:23  | 97:4,22 98:11<br>101:5 109:17                    | <b>t</b> 130:11<br><b>ta</b> 127:17 128:6<br>128:12,13,21<br>128:22,23<br>129:5,14,19,19<br>130:5,10 133:9 | 185:18 195:22<br>211:24 221:20                   |
| 89:7                  | 110:4 120:11<br>132:25 140:2<br>140:22 141:24    | <b>ta's</b> 128:10,18<br>128:23,25<br>129:17                                                               | <b>talent</b> 22:20<br>23:2 43:8,8<br>44:6       |
| <b>superior</b> 1:18  | 143:24 144:18<br>145:19,21<br>146:6,8 151:24     | <b>table</b> 131:21<br>190:23                                                                              | <b>talk</b> 33:22<br>60:25 62:4                  |
| 2:11 206:10           | 152:17 160:21<br>161:1 166:4<br>172:9 176:19     | <b>take</b> 10:21<br>16:16 17:20<br>27:2 30:3,9                                                            | 70:14,15 71:19<br>71:20 72:19                    |
| 213:20 223:1          | 178:15 183:4<br>183:17 184:16                    | 39:12 43:25<br>47:14 52:10<br>55:3 66:21                                                                   | 73:8,23 75:12<br>83:23 86:3                      |
| <b>supervised</b>     | 190:15 191:2<br><b>surprise</b> 71:18            | 79:24 80:14<br>82:18 84:20<br>88:7 93:1                                                                    | 87:7 94:24<br>96:22 104:2                        |
| 113:22                | <b>surprised</b><br>60:12 70:2                   | 117:25 118:3<br>118:13 123:1                                                                               | 112:1,21,25<br>113:3 114:1,2                     |
| <b>supervisor</b>     | <b>suspect</b> 25:3<br><b>suturing</b><br>170:14 | 124:11,14<br>125:20 128:6                                                                                  | 123:20,23<br>124:3 125:5,6                       |
| 23:20 60:13           | <b>swan</b> 106:12,14                            | 145:5 148:10<br>149:7 159:8                                                                                | 132:17 133:3<br>151:1 152:18                     |
| 62:17 65:1,21         | <b>sworn</b> 6:25<br>221:10 224:10               | 165:21 171:17                                                                                              | 169:23 173:16<br>174:25,25                       |
| 92:5,8,13,18,23       | 224:13 225:14<br>225:18 226:21                   | 180:8 211:10                                                                                               | 178:20,22<br>181:16 182:4,8                      |
| 92:23 93:5            | <b>swyss</b> 2:6                                 |                                                                                                            | 183:9 188:8                                      |
| 109:5 118:7           | <b>syllabi</b> 143:11<br>144:4 160:12            |                                                                                                            | 195:3 205:7                                      |
| <b>supervisors</b>    |                                                  |                                                                                                            | <b>talked</b> 61:10                              |
| 23:21                 |                                                  |                                                                                                            | 71:22 74:1                                       |
| <b>supervisory</b>    |                                                  |                                                                                                            | 75:3 80:2                                        |
| 99:3                  |                                                  |                                                                                                            | 83:18 103:5,7                                    |
| <b>supplier</b> 38:17 |                                                  |                                                                                                            |                                                  |
| 161:1,3               |                                                  |                                                                                                            |                                                  |
| <b>support</b> 11:22  |                                                  |                                                                                                            |                                                  |
| 30:15 38:25           |                                                  |                                                                                                            |                                                  |
| 39:5 122:5            |                                                  |                                                                                                            |                                                  |
| 199:21 202:25         |                                                  |                                                                                                            |                                                  |
| <b>supporting</b>     |                                                  |                                                                                                            |                                                  |
| 168:14                |                                                  |                                                                                                            |                                                  |
| <b>supportive</b>     |                                                  |                                                                                                            |                                                  |
| 168:10                |                                                  |                                                                                                            |                                                  |
| <b>supposed</b> 100:5 |                                                  |                                                                                                            |                                                  |
| 100:7                 |                                                  |                                                                                                            |                                                  |
| <b>sure</b> 7:8,25    |                                                  |                                                                                                            |                                                  |
| 8:23 9:13 10:8        |                                                  |                                                                                                            |                                                  |

[talked - terminate]

Page 53

|                      |                       |                        |                       |
|----------------------|-----------------------|------------------------|-----------------------|
| 114:4,13             | 141:9,14              | 196:7 197:1            | <b>tenured</b> 63:19  |
| 166:25 170:22        | 144:25 162:15         | 201:25 204:20          | 63:20 66:19           |
| 179:11 182:6         | 165:16 188:12         | 205:16,23              | 93:12                 |
| 185:12 189:3         | 206:18                | 212:19 214:15          | <b>tepper</b> 34:8    |
| <b>talking</b> 9:9   | <b>teacher</b> 35:13  | 215:4                  | 39:14 41:9            |
| 34:10 35:4           | 113:12 114:10         | <b>team</b> 28:12,19   | 42:19 43:10           |
| 44:25 67:18          | 127:17                | 29:19 44:16            | 45:19 50:9            |
| 78:21 85:15          | <b>teaches</b> 105:4  | 99:8,10,12,16          | 53:23 54:17           |
| 108:11 124:6         | <b>teaching</b> 11:21 | 99:17 100:1            | 64:9,24,25            |
| 130:15 135:6         | 35:19 36:20           | <b>technology</b>      | 75:24,25 76:3         |
| 141:18 147:10        | 39:4 44:10            | 25:14                  | 76:7 77:9,21          |
| 150:24 157:9         | 46:18 48:22           | <b>tell</b> 25:9 26:16 | 78:14,18 83:21        |
| 162:24 166:25        | 49:3 51:12            | 27:11 29:11            | 86:15 89:24           |
| 200:8 217:17         | 52:6 53:3             | 32:7 74:7              | 92:5,15 95:20         |
| <b>tall</b> 162:23   | 73:22 77:8,16         | 110:9 141:11           | 96:2,13 99:20         |
| <b>tata</b> 55:23,23 | 77:17 79:20           | 172:22 174:7           | 100:19 107:22         |
| <b>taught</b> 19:8   | 80:5,6,8 82:13        | 184:13,14              | 109:2 111:14          |
| 27:13,16 37:11       | 87:12 93:25           | 194:8                  | 113:20 114:2          |
| 46:19,20 61:7        | 96:20 100:14          | <b>ten</b> 70:4 71:14  | 124:13 182:14         |
| 70:17,18 79:10       | 102:22 105:11         | 71:24 72:10            | 191:15,16,23          |
| 79:21 82:9           | 105:13,14             | 129:19,20              | 194:8 195:8           |
| 93:25 116:5,19       | 108:3 110:24          | 130:1 211:11           | 196:3 204:6,13        |
| 117:1 149:13         | 110:25 111:4,6        | <b>tend</b> 63:20      | 204:17 205:9          |
| 154:5 190:19         | 114:6 121:10          | <b>tended</b> 112:23   | 206:4 212:11          |
| 190:20 213:12        | 127:15 141:10         | 113:2                  | 216:15                |
| <b>teach</b> 13:20   | 142:11 147:19         | <b>tense</b> 146:5     | <b>tepper's</b> 41:11 |
| 19:2 27:18           | 160:6 161:14          | 176:6                  | 77:19                 |
| 34:22,24 35:5        | 165:18,24             | <b>tension</b> 28:19   | <b>term</b> 48:6,11   |
| 35:7 36:25           | 167:6,13 168:7        | 37:3 66:17             | 51:14 56:13,17        |
| 37:5 38:9,12         | 169:3 170:11          | 139:22                 | 58:14 78:23           |
| 38:15 46:2           | 170:14,16             | <b>tentatively</b>     | 140:14 206:25         |
| 52:5 63:22           | 181:3,5 192:5         | 174:4                  | 208:6                 |
| 93:21,22 99:9        | 193:24 194:14         | <b>tenure</b> 49:9     | <b>terminate</b>      |
| 127:20 140:1         | 194:16,25             |                        | 198:5 217:1           |

## [terminated - thoughts]

Page 54

|                    |                  |                    |               |                |                        |
|--------------------|------------------|--------------------|---------------|----------------|------------------------|
| <b>terminated</b>  | <b>testing</b>   | 155:23             | <b>things</b> | 9:4 21:4       | 133:3 135:18           |
| 192:9 196:18       |                  | 156:13             |               | 29:16 38:24    | 135:24 138:16          |
| <b>terminating</b> | <b>text</b>      | 138:18             |               | 45:8,10 46:5   | 140:19 145:24          |
| 90:23 194:4        | <b>textbooks</b> |                    |               | 66:16 74:6     | 148:10 155:21          |
| 198:24 199:7       |                  | 136:11,18          |               | 75:9 77:1,4,5  | 157:19 159:3           |
| <b>termination</b> | <b>texts</b>     | 211:15             |               | 86:2 100:24    | 160:17 162:14          |
| 52:15 69:13        | <b>thank</b>     | 8:18 36:6          |               | 103:24 107:13  | 162:16 163:22          |
| 103:8,12 174:3     |                  | 36:10,14,15        |               | 107:19 114:6   | 164:14 170:9           |
| 193:1 216:7,17     |                  | 46:13 57:16        |               | 124:1 126:2    | 170:12 175:11          |
| <b>terms</b>       |                  | 68:19 82:19        |               | 137:5 147:5    | 175:22,24              |
| 38:6               |                  | 83:5 123:13,14     |               | 151:4 155:6,20 | 176:2 179:14           |
| 41:20 43:13        |                  | 141:22 152:7       |               | 156:12 163:9   | 184:8 185:9            |
| 45:17 46:21        |                  | 155:4 186:5        |               | 169:8 180:3    | 188:13 189:4           |
| 50:16 76:18        |                  | 187:20 190:13      |               | 194:1 197:25   | 191:7,10,17            |
| 99:11 144:16       |                  | 204:10 210:10      |               | 206:13 207:1   | 195:18 197:4,5         |
| 149:17 153:20      |                  | 210:11 211:19      | <b>think</b>  | 9:7 22:4       | 197:12,13,24           |
| 154:25 167:5       | <b>thanks</b>    | 15:25              |               | 22:7 24:1,4    | 212:11 213:2           |
| 191:3,5 199:20     |                  | 16:10 58:5         |               | 27:20 40:8     | 215:23                 |
| 205:20             |                  | 171:22             |               | 43:2 46:19     | <b>thinking</b> 112:5  |
| <b>test</b>        |                  | <b>theoretical</b> |               | 61:15 63:3     | <b>third</b> 4:16 17:8 |
| 140:25             |                  | 142:12             |               | 67:2 68:20     | 17:9 28:21             |
| 149:9 153:5        |                  | <b>theory</b>      | 142:16        | 74:25,25 75:6  | 36:22 38:18            |
| <b>tested</b>      |                  | <b>thereabouts</b> |               | 79:24 81:22    | 39:6 88:2,17           |
| 154:23             |                  | 82:11              |               | 86:7 93:10     | 88:21 89:12            |
| <b>testified</b>   |                  | <b>thereof</b>     | 200:12        | 95:13,14,25    | 161:8 165:22           |
| 12:15              | <b>thing</b>     | 10:4               |               | 97:8 99:23     | <b>thirds</b> 38:17    |
| <b>testify</b>     |                  | 15:20 40:11        |               | 100:12,15      | <b>thirty</b> 34:10    |
| 8:15               |                  | 48:16 87:7         |               | 101:10 102:22  | 223:18                 |
| 13:1 174:15        |                  | 112:6 138:21       |               | 103:2,15,18    | <b>thorman</b> 2:3     |
| 221:10             |                  | 141:5 144:23       |               | 105:15 107:15  | <b>thought</b> 100:16  |
| <b>testifying</b>  |                  | 151:16 159:7       |               | 110:10,18      | 195:24 200:23          |
| 8:21               |                  | 168:19 195:14      |               | 130:12,18,20   | 204:22 213:13          |
| 13:4               |                  | 196:13 204:22      |               | 131:12,25      | <b>thoughts</b> 164:3  |
| <b>testimonial</b> |                  | 206:14             |               | 132:6,24 133:1 |                        |
| 87:11,12           |                  |                    |               |                |                        |
| <b>testimony</b>   |                  |                    |               |                |                        |
| 10:16 217:4        |                  |                    |               |                |                        |
| 221:13,17          |                  |                    |               |                |                        |
| 224:6,7 225:6      |                  |                    |               |                |                        |
| 225:9,12           |                  |                    |               |                |                        |

[threat - topics]

Page 55

|                   |                |                |                  |                 |               |
|-------------------|----------------|----------------|------------------|-----------------|---------------|
| <b>threat</b>     | 107:19         | 65:24 67:5     | 215:18,22        | <b>together</b> | 64:14         |
| <b>threatened</b> | 94:21 192:25   | 71:12,22 72:9  | 219:22 221:20    |                 | 145:16        |
| <b>three</b>      | 12:9           | 72:12 73:19    | <b>timeframe</b> | <b>told</b>     | 25:2,4 52:2   |
|                   | 28:10 38:14    | 79:4,22 82:21  | 67:17 92:7       |                 | 52:7 53:7,18  |
|                   | 39:1,7 46:11   | 82:24 84:6     | <b>timeline</b>  |                 | 60:17 65:11   |
|                   | 66:3 71:11     | 86:20 88:7,19  | 78:14            |                 | 68:1 71:11    |
|                   | 95:23 96:7     | 92:4,6,14 93:3 | <b>times</b>     |                 | 73:24 112:17  |
|                   | 97:15 98:1,17  | 94:17 95:18,21 | 71:12 73:14      |                 | 134:25 135:3  |
|                   | 110:8 130:1    | 98:24 99:6     | 75:20 84:1,9     |                 | 165:7 191:22  |
|                   | 138:12 161:5   | 102:1,4 103:7  | 85:11,14 94:11   |                 | 192:8 193:18  |
|                   | 161:10 165:19  | 103:14 104:5   | 99:5 125:11      |                 | 194:14 195:12 |
|                   | 168:21 174:2   | 106:3 108:15   | 130:4 135:18     | <b>tom</b>      | 24:1,2        |
|                   | 191:22 194:19  | 111:25 114:15  | 148:8 149:19     | <b>tomorrow</b> |               |
|                   | 210:17         | 118:5 126:21   | 154:22 155:10    |                 | 178:24        |
| <b>thrive</b>     | 5:3            | 126:24 127:1   | 162:16 168:15    | <b>took</b>     | 12:23         |
|                   | 137:21 138:3   | 135:19,22      | 180:15 182:11    |                 | 17:21 37:14   |
| <b>tie</b>        | 189:24         | 144:13 145:16  | 191:22 203:1     |                 | 79:4 168:15   |
|                   | 191:19         | 148:11 149:11  | <b>timetable</b> |                 | 184:7,10      |
| <b>tiers</b>      | 63:24          | 149:13 153:10  | 185:10           |                 | 186:20 212:6  |
| <b>time</b>       | 6:3 8:1        | 153:25 154:3   | <b>timing</b>    | <b>tool</b>     | 164:13        |
|                   | 10:9,9 17:21   | 154:14,15      | 166:5            | <b>tools</b>    | 138:15        |
|                   | 19:1 21:9      | 155:6,13,22    | <b>tips</b>      |                 | 148:22 150:12 |
|                   | 23:15,24 24:18 | 160:21 168:16  | 138:15           |                 | 151:16 153:6  |
|                   | 25:10,22 27:7  | 169:4 170:7,17 | <b>title</b>     |                 | 156:14 161:6  |
|                   | 27:12 28:25    | 170:22 171:20  | 34:12            |                 | 161:11 179:20 |
|                   | 29:8,12 30:2   | 174:12 175:5   | 41:11 69:19      | <b>top</b>      | 39:3,4 90:9   |
|                   | 31:21 32:4,4   | 176:20 177:2,8 | 159:14 175:13    |                 | 124:11 144:3  |
|                   | 32:11 38:11    | 177:11 178:24  | 212:24           |                 | 159:13 209:11 |
|                   | 40:12 41:12    | 179:4,10 180:2 | <b>titled</b>    |                 | 210:3,4 215:3 |
|                   | 43:22 48:11    | 185:11 186:20  | 81:9             |                 | 218:3         |
|                   | 51:15,23 53:9  | 201:5,18       | <b>today</b>     | <b>topic</b>    | 192:11,15     |
|                   | 55:16 62:12,17 | 206:23 211:23  | 7:13             |                 | 202:5 217:18  |
|                   | 64:12,21 65:2  | 212:1 213:23   | 10:16 114:17     | <b>topics</b>   | 140:1         |
|                   |                | 214:20 215:17  | 178:23,23        |                 |               |
|                   |                |                | 193:6 208:11     |                 |               |
|                   |                |                | <b>today's</b>   |                 |               |
|                   |                |                | 6:2              |                 |               |
|                   |                |                | 11:8             |                 |               |

[total - types]

Page 56

|                    |               |                       |                        |                        |
|--------------------|---------------|-----------------------|------------------------|------------------------|
| <b>total</b>       | 22:4          | <b>trajectory</b>     | 5:3                    | 167:18 169:2           |
| <b>totally</b>     | 20:5          | 155:18                | 49:12 104:1            | 180:17 202:4           |
| <b>touch</b>       | 39:2          | <b>transaction</b>    | 137:8,21               | 204:23                 |
|                    | 45:17 178:23  | 12:19 103:19          | 162:25                 | <b>tuesday</b> 166:6   |
|                    | 184:18 202:24 | <b>transcribed</b>    | troubled 44:1          | <b>turn</b> 90:13 91:9 |
| <b>touching</b>    | 38:22         | 221:16 224:7          | 162:18                 | 139:17 151:20          |
|                    | 39:1          | <b>transcript</b> 3:1 | <b>true</b> 31:25      | 187:18                 |
| <b>tough</b>       | 148:10        | 9:7 220:3,6,9         | 50:15 56:19            | <b>turned</b> 16:24    |
|                    | 148:11,16     | 220:11,13             | 58:17 82:15            | 46:17 66:19            |
|                    | 151:15 167:8  | 223:11,12             | 119:18 162:7           | <b>turner</b> 11:16    |
| <b>towards</b>     | 26:25         | 224:5,12 225:5        | 167:21 221:16          | <b> tweaks</b> 144:10  |
|                    | 60:18 207:15  | 225:11,17             | <b>truth</b> 221:11,11 | 144:13                 |
| <b>tower</b>       | 155:11        | <b>transcription</b>  | 221:12                 | <b>twelve</b> 207:5    |
|                    | 155:13        | 221:17                | <b>truthful</b> 10:16  | <b>twenty</b> 15:23    |
| <b>town</b>        | 210:25        | <b>transferred</b>    | 186:22                 | 64:5                   |
|                    | 211:1         | 66:2                  | <b>truthfully</b> 8:21 | <b>twice</b> 40:9,11   |
| <b>tpgfirm.com</b> | 2:6,6         | <b>transition</b>     | <b>try</b> 9:11,25     | 95:2                   |
|                    |               | 63:25                 | 68:2 85:16             | <b>two</b> 20:2 21:22  |
| <b>track</b>       | 49:9          | <b>transpired</b>     | 86:6,9 87:6            | 21:23 38:17            |
| <b>tracked</b>     | 46:4          | 134:19                | 98:8 128:6             | 39:22 44:2             |
|                    | 108:2         | <b>travel</b> 29:17   | 147:2,16               | 48:19 53:22            |
| <b>tracy</b>       | 1:20 8:8      | 30:15                 | 165:15 167:12          | 56:16 60:6             |
|                    | 35:24 221:6   | <b>treated</b> 51:11  | 172:25 173:21          | 63:5,18,23             |
|                    | 222:14        | 204:1,17              | 174:22 181:18          | 64:2 84:8              |
| <b>tradition</b>   | 67:6          | <b>treatment</b>      | 182:10                 | 85:12 93:11            |
| <b>trail</b>       | 5:10          | 204:3                 | <b>trying</b> 45:1,3   | 112:10 113:21          |
|                    | 177:14        | <b>tremendously</b>   | 49:25 50:13            | 117:3 138:7            |
| <b>trained</b>     | 28:9          | 211:3                 | 64:17,18 65:14         | 141:5 155:5            |
|                    | 145:3 210:14  | <b>tried</b> 67:14,24 | 74:17 122:12           | 165:14,14,16           |
| <b>training</b>    | 19:22         | 73:13 86:18           | 122:21 139:24          | 174:2 179:9            |
|                    | 20:13 21:2    | 87:21 103:16          | 140:2 146:25           | <b>type</b> 10:21,22   |
|                    | 23:2 24:16    | 118:8 181:19          | 147:8 150:2            | 99:24 153:15           |
|                    | 25:12 28:11   | 182:11,18             | 153:3 156:21           | <b>types</b> 63:11,16  |
|                    | 35:3 99:7     |                       | 163:7 165:6            | 141:5 210:14           |

[typical - v]

Page 57

|                         |                                                                                                                                                                             |                                                                                                            |                     |                   |               |                         |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|---------------------|-------------------|---------------|-------------------------|
| <b>typical</b>          | 26:20<br>75:8 106:18<br>153:15 180:18                                                                                                                                       | 208:20 215:15<br>217:24 219:16                                                                             | <b>universities</b> | 33:11 35:20       | <b>use</b>    | 136:19<br>137:1,3 140:1 |
| <b>u</b>                |                                                                                                                                                                             | <b>undergrad</b>                                                                                           | 207:8 214:24        | <b>university</b> | 6:6           | 140:21 141:14           |
| <b>u</b>                | 7:11 130:11                                                                                                                                                                 | 111:4 116:8<br>127:4                                                                                       | 6:20 17:12          |                   | 146:10,13,14  | 146:23 148:21           |
| <b>uber</b>             | 134:22                                                                                                                                                                      | <b>undergraduate</b>                                                                                       | 18:1,17,20          |                   | 150:12 156:14 |                         |
| <b>um</b>               | 14:3 29:5<br>30:7 69:25<br>91:18 100:1<br>114:12 117:3<br>124:9 134:17<br>142:8 165:11<br>168:8                                                                             | 105:5                                                                                                      | 27:8 30:23          |                   | 159:21 161:15 |                         |
| <b>unable</b>           | 211:5                                                                                                                                                                       | <b>undergraduates</b>                                                                                      | 33:14 34:23         |                   | 161:16 169:9  |                         |
| <b>unacceptable</b>     | 119:16                                                                                                                                                                      | 128:3                                                                                                      | 35:9,10 44:18       |                   | 169:16,19     |                         |
| <b>uncertain</b>        | 138:14                                                                                                                                                                      | <b>underneath</b>                                                                                          | 101:14 208:22       |                   | 170:9 178:11  |                         |
| <b>uncharacteris...</b> | 143:7                                                                                                                                                                       | 131:20                                                                                                     | 214:4 215:13        |                   | 178:12,16,21  |                         |
| <b>uncomfortable</b>    | 163:4                                                                                                                                                                       | <b>understand</b>                                                                                          | <b>unknown</b>      | 62:5              | 185:23 193:18 |                         |
| <b>under</b>            | 7:15 8:2<br>12:15 27:13<br>28:22 34:21<br>36:25,25 37:6<br>59:16,16 63:18<br>89:10 91:3,16<br>99:10 118:2<br>120:21 128:19<br>131:1 195:2<br>196:25 198:21<br>198:22 206:18 | 7:12,22 8:6,12<br>9:21 42:3 59:3<br>72:5 78:2<br>95:25 102:2<br>176:9 177:5<br>181:23 208:9<br>218:2 219:1 | 7:12                | 89:25             | 193:23 199:21 |                         |
|                         |                                                                                                                                                                             | <b>understanding</b>                                                                                       | <b>unofficial</b>   | 31:7              | <b>used</b>   | 55:16                   |
|                         |                                                                                                                                                                             | 53:24 149:10<br>173:13 174:15<br>177:2 188:6                                                               | <b>unofficially</b> | 31:2              |               | 72:15 137:7,9           |
|                         |                                                                                                                                                                             | <b>unfold</b>                                                                                              | <b>unquote</b>      | 212:12            |               | 144:5 147:24            |
|                         |                                                                                                                                                                             | 182:13                                                                                                     | <b>unrealistic</b>  |                   |               | 148:7 154:10            |
|                         |                                                                                                                                                                             | <b>unfortunately</b>                                                                                       | 128:9               |                   |               | 157:19,21               |
|                         |                                                                                                                                                                             | 16:12                                                                                                      | <b>unredacted</b>   |                   |               | 159:15 169:14           |
|                         |                                                                                                                                                                             | <b>union</b>                                                                                               | 5:12 177:16         |                   |               | 179:14 207:21           |
|                         |                                                                                                                                                                             | 43:5                                                                                                       | <b>unrelated</b>    |                   |               |                         |
|                         |                                                                                                                                                                             | <b>unique</b>                                                                                              | 193:11              |                   |               |                         |
|                         |                                                                                                                                                                             | 157:21                                                                                                     | <b>unusual</b>      | 121:18            |               |                         |
|                         |                                                                                                                                                                             | <b>united</b>                                                                                              | 121:19 131:20       |                   |               |                         |
|                         |                                                                                                                                                                             | 1:1 6:7                                                                                                    | 133:13              |                   |               |                         |
|                         |                                                                                                                                                                             | 19:18 20:9                                                                                                 | <b>update</b>       | 67:11             |               |                         |
|                         |                                                                                                                                                                             | 29:9,22 30:5                                                                                               | <b>upgraded</b>     |                   |               |                         |
|                         |                                                                                                                                                                             | 30:18,24 31:13                                                                                             | 22:24               |                   |               |                         |
|                         |                                                                                                                                                                             | 123:6,18                                                                                                   | <b>upset</b>        | 66:14             |               |                         |
|                         |                                                                                                                                                                             |                                                                                                            | 112:16 122:25       |                   |               |                         |
|                         |                                                                                                                                                                             |                                                                                                            | <b>usc</b>          | 91:3,16           |               |                         |
|                         |                                                                                                                                                                             |                                                                                                            | 198:22              |                   |               |                         |
|                         |                                                                                                                                                                             |                                                                                                            |                     |                   | <b>v</b>      |                         |
|                         |                                                                                                                                                                             |                                                                                                            |                     |                   | <b>v</b>      | 7:11 223:6              |
|                         |                                                                                                                                                                             |                                                                                                            |                     |                   |               | 224:3 225:3             |

**[vague - watching]**

Page 58

|                                                                 |                                                       |                                                                  |                                                              |
|-----------------------------------------------------------------|-------------------------------------------------------|------------------------------------------------------------------|--------------------------------------------------------------|
| <b>vague</b> 96:12<br>184:22 187:7                              | <b>vice</b> 22:24,25<br>23:25 24:3,4,6                | <b>visiting</b> 35:19<br><b>visits</b> 5:3 137:8<br>137:21       | 84:20 92:2<br>94:5,5 96:25<br>123:2 137:1                    |
| <b>vaguely</b> 47:20<br>55:8                                    | <b>video</b> 1:12 7:18<br>144:22 145:6<br>148:1 151:8 | <b>voice</b> 183:20<br><b>voluntarily</b><br>26:25 29:22<br>30:8 | 145:21 148:9<br>150:9 152:16<br>160:8 171:21<br>171:25 172:8 |
| <b>value</b> 145:7                                              | <b>videographer</b><br>2:16 6:1 82:20<br>82:23 126:20 | <b>voluntary</b><br>26:10,18 27:4<br>27:5                        | 175:6 187:23<br>207:20 209:18                                |
| <b>variation</b> 109:8                                          | 126:23 171:19<br>172:3 177:7,10                       | <b>volunteer</b><br>27:24 31:10<br>148:14,15                     | <b>wanted</b> 26:2<br>31:17 39:24                            |
| <b>variations</b> 17:2<br>108:24 109:9<br>157:5                 | <b>videos</b> 146:3,9<br>161:17                       | <b>volunteering</b><br>46:22                                     | 40:3 42:13<br>52:4 71:18                                     |
| <b>varied</b> 13:20<br>17:1                                     | <b>videotape</b> 6:4                                  | <b>vs</b> 1:7                                                    | 72:1 74:3<br>84:13 94:18<br>99:7 103:25                      |
| <b>variety</b> 209:16<br>209:21                                 | <b>view</b> 94:9<br>117:17                            | <b>w</b>                                                         | 112:14 125:18<br>126:1 131:25                                |
| <b>various</b> 13:17                                            | <b>viewed</b> 47:23                                   | <b>w</b> 1:18 2:11 4:5<br>4:23 47:9                              | 132:9 137:2<br>143:3 153:13                                  |
| <b>varnau.6</b> 5:8<br>164:17                                   | <b>viewpoint</b><br>91:17                             | <b>wait</b> 9:14,19                                              | 166:3 169:1,1<br>172:12 173:14                               |
| <b>vent</b> 151:3                                               | <b>viewpoints</b><br>201:14,19                        | <b>waived</b> 223:19                                             | 174:6,25<br>205:24                                           |
| <b>venturing</b><br>106:15,17,19                                | <b>views</b> 90:24<br>198:24 199:8                    | <b>waiving</b> 173:2<br>209:15 210:7                             | <b>wants</b> 131:5<br>136:22 145:22                          |
| <b>verbal</b> 53:14,15<br>53:16 86:14<br>97:23 163:13<br>167:13 | <b>violated</b> 91:25<br>189:25 215:14<br>215:21      | <b>walk</b> 145:1,12<br>149:22 169:2                             | <b>ward</b> 4:7 54:23<br>55:20 99:24                         |
| <b>verbally</b> 65:11<br>156:2 214:4                            | <b>violating</b> 188:3<br>189:12                      | <b>walked</b> 84:4                                               | <b>warn</b> 156:2                                            |
| <b>veritext</b> 223:1,7<br>226:1                                | <b>violation</b> 15:5<br>91:7,16                      | <b>walker</b> 2:5                                                | <b>warned</b> 163:1                                          |
| <b>veritext.com.</b><br>223:17                                  | <b>violations</b><br>14:20                            | <b>walking</b> 188:14                                            | <b>warning</b><br>154:17,20                                  |
| <b>version</b> 173:11<br>174:14                                 |                                                       | <b>want</b> 7:6 31:5<br>32:3 42:13<br>45:10 63:9<br>67:4 70:14   | <b>watching</b> 143:9                                        |
| <b>versus</b> 6:5<br>146:15 211:17                              |                                                       | 74:16 75:19                                                      |                                                              |

[watson's - word]

Page 59

|                       |                      |                        |                        |
|-----------------------|----------------------|------------------------|------------------------|
| <b>watson's</b> 88:11 | 76:19 103:17         | <b>whatsoever</b>      | 42:22 46:8,13          |
| <b>wattercutter</b>   | 140:5,14             | 122:7                  | 68:19 77:25            |
| 85:19 86:18,23        | 160:23 194:19        | <b>whereof</b> 222:5   | 78:3 83:12,15          |
| 87:5 89:25            | 194:21,23            | <b>whitey</b> 147:22   | 88:10,15 89:19         |
| 101:24 102:12         | 196:2 203:1          | 148:2 149:23           | 90:17 91:11            |
| 102:16 103:5          | 212:12               | 150:8,14 151:7         | 123:10,14              |
| 132:23 187:25         | <b>wearing</b> 170:6 | 152:10,14              | 126:11,14              |
| 188:2,18              | <b>weatherhead</b>   | 154:12 156:5           | 131:6 135:1            |
| 190:25 196:16         | 17:16,17 27:9        | 156:10 159:18          | 141:24 145:23          |
| 196:22 197:9          | 206:20               | 161:18 162:7,9         | 146:1 152:4,7          |
| 200:20                | <b>website</b> 32:15 | 162:19 166:12          | 172:7,10,11            |
| <b>wattercutter's</b> | 110:20 157:15        | 166:18 169:9           | 186:5 187:20           |
| 219:17                | 159:4                | 170:23 181:12          | 190:6,10,13            |
| <b>way</b> 6:13 9:6   | <b>week</b> 36:23    | 183:11 185:6           | 191:12 198:19          |
| 15:20 35:25           | 46:1 71:23,23        | 188:20 190:1           | 210:9,11               |
| 38:10 40:4            | 93:11 158:21         | 191:21 192:23          | 211:12 221:9           |
| 53:3 57:17            | 162:16 207:5         | 194:5,10               | 221:14,15,18           |
| 58:21 63:4            | <b>weekly</b> 95:3   | 195:10 202:9           | 222:5 223:8,11         |
| 66:10 74:18           | <b>weeks</b> 38:8    | 202:13 203:9           | 224:1,4,11             |
| 77:10,11 78:21        | 147:4 161:12         | 203:15                 | 225:1,4,15             |
| 79:19 83:1            | <b>weigh</b> 209:9   | <b>wife</b> 12:6       | <b>witness's</b> 220:2 |
| 85:14,24 101:6        | <b>went</b> 9:25     | 130:23 210:18          | <b>witness'</b> 223:14 |
| 107:2 110:7           | 19:17,20 43:17       | <b>wife's</b> 26:1     | <b>woman</b> 40:8      |
| 140:7 141:9           | 76:19 79:19          | <b>william</b> 85:19   | 53:11 90:7             |
| 150:1 152:23          | 85:13 86:4           | 89:24 101:24           | 185:5,9,17             |
| 155:24 158:2          | 124:1 127:13         | 132:23 187:24          | <b>won</b> 111:8       |
| 161:13 165:17         | 150:7 167:10         | 190:25 198:9           | <b>worcester</b>       |
| 167:10 168:4          | 172:21 195:20        | 200:20 219:16          | 19:25                  |
| 180:6,14 181:3        | 199:11 201:9         | <b>willing</b> 39:16   | <b>word</b> 50:16      |
| 182:19 188:13         | 204:21 213:12        | <b>winter</b> 52:20    | 72:15 77:12            |
| 202:5 211:18          | <b>western</b> 17:11 | <b>wish</b> 72:24      | 139:24 159:21          |
| 213:13,15             | 17:15 27:8           | <b>witness</b> 8:10,14 | 170:1 173:7            |
| <b>ways</b> 30:16     | 28:25 29:9           | 8:18 15:2 22:2         | 185:23 193:23          |
| 37:3 39:4             | 30:23                | 36:6,10,14             |                        |

## [wording - year]

Page 60

|                  |                                                                                                                                                                                                                                   |                                                                                                  |                                                                                                                                                                                                                                                                                                                                                |
|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>wording</b>   | 33:24 43:6<br>44:17 64:13                                                                                                                                                                                                         | <b>wyss</b> 2:4 6:15<br>6:16                                                                     | 125:8 126:8,11<br>130:8 131:6                                                                                                                                                                                                                                                                                                                  |
| <b>words</b>     | 54:7,8<br>70:16 151:9,10<br>169:23 179:14<br>205:21                                                                                                                                                                               | <b>x</b>                                                                                         | 132:13,16,22<br>132:24 135:12<br>136:9,20<br>138:20,23                                                                                                                                                                                                                                                                                         |
| <b>work</b>      | 20:9,22<br>22:16 27:24<br>29:18 39:24<br>55:23 79:9<br>100:9 101:20<br>102:15 124:18<br>124:21 126:2<br>128:14,15,16<br>128:18 138:24<br>139:12 148:9<br>148:11 150:4<br>175:21 191:1,6<br>191:9 200:16<br>206:17 207:13<br>214:9 | <b>workload</b><br>118:3                                                                         | <b>xerox</b> 5:3<br>137:22                                                                                                                                                                                                                                                                                                                     |
| <b>worked</b>    | 19:19<br>21:17 25:6<br>26:13 27:8<br>29:9 33:2<br>34:16 35:11,13<br>43:4,21,23<br>92:10 150:5<br>160:21 169:4<br>208:16                                                                                                           | <b>works</b> 148:23<br><b>workshop</b><br>30:13,14<br>206:19                                     | <b>y</b>                                                                                                                                                                                                                                                                                                                                       |
| <b>workforce</b> | 25:12 29:13                                                                                                                                                                                                                       | <b>workshops</b><br>27:21,22 28:1<br>31:10                                                       | <b>yea</b> 11:24<br><b>yeah</b> 8:7 12:2<br>17:5 18:13<br>20:7,7 22:11<br>22:11,15 23:23                                                                                                                                                                                                                                                       |
| <b>working</b>   | 13:5<br>21:2 30:5                                                                                                                                                                                                                 | <b>world</b> 29:17<br>107:16 140:3                                                               | 26:11 27:6<br>28:4,7 29:1,23<br>30:21 31:1<br>34:4 40:20,23<br>40:25 42:10<br>45:4 46:13<br>48:13 49:8,16<br>50:24 54:2,12<br>54:18 55:14<br>56:15,15 60:9<br>60:24 61:11,18<br>62:7 66:1 68:8<br>69:18 75:14,17<br>78:10,16,22,24<br>81:21 83:8,12<br>83:15 84:23<br>103:22 108:8<br>109:14 110:3<br>116:13,24<br>117:11 118:5<br>123:5,12,19 |
|                  |                                                                                                                                                                                                                                   | <b>wright</b> 19:24<br><b>wrist</b> 39:3<br><b>write</b> 125:21<br>137:1 143:10<br>157:11 204:12 | <b>year</b> 14:16<br>17:22 18:11,12<br>19:6,8,14 22:5<br>22:6 30:1,10<br>31:6 44:2 52:3<br>52:19 56:16<br>60:3,6,11,15,18<br>62:6,23 64:13                                                                                                                                                                                                     |

[year - zone]

Page 61

67:7 82:6  
93:24 108:25  
108:25 115:24  
117:9 128:7  
138:8  
**years** 14:14,15  
14:18 15:23  
17:21 19:5  
20:1 21:23,23  
24:2 28:10,10  
31:11 34:11  
45:2 48:19  
61:9 64:5,8  
65:19 66:3,4  
108:13 109:3  
112:10 113:17  
113:19 127:9  
127:11 174:2,2  
190:19 213:11  
**yelled** 9:8 68:1  
**yelling** 148:20  
**young** 145:10  
210:17  
**yup** 126:14  
164:24

**z**

**zone** 155:14

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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